

CENTERVILLE MUNICIPAL CODE

PART EIGHT - BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

- Chap. 808. Circuses and Carnivals.
- Chap. 828. Massage Parlors.
- Chap. 836. Peddlers, Vendors, Canvassers, and Charitable Solicitations.
- Chap. 838. Adult Entertainment. (Repealed)
- Chap. 840. Rental Unit Inspection Regulations.
- Chap. 842. Competitive Video Service Authorizations.
- Chap. 844. Mobile Food Vehicle Vendors.

TITLE FOUR - Taxation

- Chap. 870. Hotel-Motel Tax.
- Chap. 880. Earned Income Tax.
- Chap. 890. Community Reinvestment Area.
- Chap. 892. Municipal Motor Vehicle License Tax.

CENTERVILLE MUNICIPAL CODE

PART EIGHT - BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

- Chap. 808. Circuses and Carnivals.
 - Chap. 828. Massage Parlors.
 - Chap. 836. Peddlers, Vendors, Canvassers, and Charitable Solicitations.
 - Chap. 838. Adult Entertainment. (Repealed)
 - Chap. 840. Rental Unit Inspection Regulations.
 - Chap. 842. Competitive Video Service Authorizations.
 - Chap. 844. Mobile Food Vehicle Vendors.
-

CHAPTER 808

Circuses and Carnivals

- | | |
|-------------------------------|--|
| 808.01 Definitions. | 808.08 License fees. |
| 808.02 License required. | 808.09 Utility service charges. |
| 808.03 License application. | 808.10 License issuance; display required. |
| 808.04 Liability insurance. | 808.11 Travel route; precautions. |
| 808.05 Income tax bond. | 808.12 License revocation. |
| 808.06 Surety bond. | 808.99 Penalty. |
| 808.07 Service of process. | |

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.48, 715.63, 3765.02
 Power to regulate advertising - see Ohio R.C. 715.65
 Contests or games at county fairs - see Ohio R.C. 1711.09, 1711.11
 State licensing of portable amusement devices - see Ohio R.C. 1711.11(H)
 County license for public shows - see Ohio R.C. Ch. 3765
 Littering - see Ohio R.C. 3767.20; GEN. OFF. 660.03, 660.035
 Gambling - see GEN. OFF. Ch. 630

808.01 DEFINITIONS.

As used in this chapter:

- (a) “Carnival,” in addition to the definition commonly applied thereto, means a group of two or more traveling shows, exhibitions, concessions, attractions or

amusements usually operated under one sponsorship and exhibited in, on or about the same area, place or space.

- (b) "Circus," in addition the definition commonly applied thereto, means a traveling show or entertainment which is exhibited under canvas or tents, which usually consists of a menagerie, aerial, acrobatic and animal feats, sideshows and related amusements, with the main attraction normally conducted twice daily.
- (c) "Other show" means any single attraction, museum, show or exhibition which is operated exclusively and directly for private gain or profit and which is not conducted in a duly licensed theater or hall or pursuant to another form of license or permit required by the City.
(Ord. 59-74. Passed 7-15-74.)

808.02 LICENSE REQUIRED.

Any person who exhibits or participates in exhibiting any circus, carnival or other show, whether under canvas tent or otherwise, shall secure a license from the Manager before giving any performance. The fee for the license shall be in accordance with the provisions of Section 808.08.

(Ord. 59-74. Passed 7-15-74.)

808.03 LICENSE APPLICATION.

Application, in writing, for a circus, carnival or other show license, as required by Section 808.02, shall be made to the Manager by the owner or operator of the circus, carnival or other show, and shall contain such information about the type of operation, sanitation procedures to be followed, provisions for providing electricity, maintenance of facilities to prevent fire and such other information as the Manager may require.

(Ord. 59-74. Passed 7-15-74.)

808.04 LIABILITY INSURANCE.

No circus, carnival or other show license shall be issued until proof of current liability insurance is presented to the Manager by the applicant for the license. The liability insurance policy shall be in amounts of not less than one million dollars (\$1,000,000) for any one person, one million dollars (\$1,000,000) for any one accident and five hundred thousand dollars (\$500,000) for property damage.

808.05 INCOME TAX BOND.

Before issuance of a circus, carnival or other show license by the Manager, a cash bond in the amount of five hundred dollars (\$500.00) shall be deposited with the Finance Director. The condition of this bond shall be that upon the conclusion of the circus, carnival or other show within the City, there will be an income tax accounting with the Superintendent of Taxation. If there is any remaining balance it shall be returned.

808.06 SURETY BOND.

(a) The application for a circus, carnival or other show license must be accompanied by a five hundred dollar (\$500.00) cash or surety bond with a company licensed to do business in the State and approved by the Municipal Attorney. The condition of the bond shall be such that the circus, carnival or other show shall keep the premises in a clean, healthful and sanitary condition to the satisfaction of the County Board of Health, a City inspector and the Fire Chief.

(b) The return of such money is contingent upon the carnival, circus or other show cleaning up its debris and trash and leaving its premises upon departure in as good a condition as they were at the time of occupancy, normal wear and tear and acts of God excepted.

(Ord. 59-74. Passed 7-15-74.)

808.07 SERVICE OF PROCESS.

Prior to the issuance of a circus, carnival or other show license, the Manager shall require that a certain named person agree, in writing, to accept all citations, notices, processes and similar legal papers from the City.

(Ord. 59-74. Passed 7-15-74.)

808.08 LICENSE FEES.

A license for a circus, carnival or other show operated for profit shall be issued only upon payment in advance of the appropriate license fee to the Manager for credit to the General Fund, in accordance with the following schedule:

(a) For each twenty-four hour day during which a circus is maintained for exhibition, five hundred dollars (\$500.00);

(b) For each twenty-four hour day during which a carnival is maintained for exhibition, fifty dollars (\$50.00);

(c) For each twenty-four hour day during which another show is maintained for exhibition, thirty dollars (\$30.00);

(d) For each parade of any circus, carnival or other show or march or organized public demonstration, the route, nature and extent of which shall be designated by the Chief of Police and approved by the City Manager, three hundred dollars (\$300.00).

808.09 UTILITY SERVICE CHARGES.

No fee for a license for a circus, carnival or other show shall be deemed to include any charge by the City for water or other utility service furnished by it to any circus, carnival or other show.

(Ord. 59-74. Passed 7-15-74.)

808.10 LICENSE ISSUANCE; DISPLAY REQUIRED.

The Manager may issue a circus, carnival or other show license to the owner or operator in compliance with this chapter, and the license shall be displayed at all times in a prominent location and produced upon demand by a police officer or other person designated by the Manager. (Ord. 59-74. Passed 7-15-74.)

808.11 TRAVEL ROUTE; PRECAUTIONS.

Any person who obtains a circus, carnival or other show license under the provisions of this chapter and who desires to move any part of the circus, carnival or other show, or the property thereof, over any portion of a paved street of the City or over any cement crosswalks therein, shall first apply to the Manager for permission to do so. The Manager shall designate, in writing, the route which the circus, carnival or other show shall take and specify the methods to be employed by the licensee to prevent injury to the pavements, crosswalks and route during the use thereof.
(Ord. 59-74. Passed 7-15-74.)

808.12 LICENSE REVOCATION.

The Manager is hereby authorized to withdraw any circus, carnival or other show license granted under the provisions of this chapter upon the occurrence of any of the following:

- (a) Failure to maintain proper health standards;
- (b) Improper installation of equipment, including electrical apparatus;
- (c) Misrepresentation of the type of show;
- (d) Creation of a fire hazard;
- (e) Repeated violation of ordinances of the City or statutes of the State.

(Ord. 59-74. Passed 7-15-74.)

808.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 828

Massage Parlors

- 828.01 Definitions.
- 828.02 License required.
- 828.03 Exemptions.
- 828.04 Application for massage establishment license; fee.
- 828.05 Issuance of license for massage establishment; effective period.
- 828.06 Revocation or suspension of establishment license.
- 828.07 Application for massage technician license; fee.
- 828.08 Issuance of license for massage technician; effective period.
- 828.09 Revocation or suspension of massage technician license.
- 828.10 Required facilities.
- 828.11 Operating requirements.
- 828.12 Out-call massage service.
- 828.13 Transfer of licenses.
- 828.14 Rules and regulations.
- 828.15 Application to current practitioners.
- 828.99 Penalty.

CROSS REFERENCES

Sexual imposition - see GEN. OFF. 666.03
 Voyeurism - see GEN. OFF. 666.05
 Public indecency - see GEN. OFF. 666.06
 Soliciting - see GEN. OFF. 666.08

828.01 DEFINITIONS.

As used in this chapter:

- (a) “Employee” means any and all persons, other than the massage technician, who renders any service to the operator, and who receive compensation directly from the operator.

(b) "Massage" means any method of pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of, the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice for a purpose other than the treatment of disorders of the human body.

(c) "Massage establishment" means any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on, any of the activities mentioned in subsection (b) hereof for any consideration whatsoever.

(d) "Massage technician" means any person who, for any consideration whatsoever, engages in the practice of massage as defined in subsection (b) hereof.

(e) "Operator" means the permit operator of a massage establishment.

(f) "Out-call massage service" means any business, the function of which is to engage in or carry on massages at a location designated by the customer or client rather than at a massage establishment.

(g) "Person" means any individual, co-partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(h) "Sexual or genital area" means the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

(Ord. 33-79. Passed 8-6-79.)

828.02 LICENSE REQUIRED.

(a) No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of a massage establishment as herein defined, unless such massage establishment shall be licensed under this chapter.

(b) No person shall engage in the business of or be employed as a massage technician in the City unless he or she has obtained a license from the Manager or his or her designate.

(Ord. 33-79. Passed 8-6-79.)

828.03 EXEMPTIONS.

(a) The provisions of this chapter shall not apply to the following:

- (1) Hospitals, nursing homes and public health centers;
- (2) The offices of a person who is licensed or registered by the State of Ohio Medical Board which are used while performing the licensed or registered profession;

(3) A licensed barber shop, beauty salon, school of cosmetology or barber's school, while used to perform the licensed vocation;

(4) The offices of a licensed chiropractor or physical therapist while used to perform the licensed profession.

(b) The provisions of this chapter shall not apply to the following:

(1) A person licensed or registered by the State of Ohio Medical Board while performing the licensed or registered profession;

(2) Licensed cosmetologists, registered barbers, registered barber apprentices, licensed chiropractors, licensed practical nurses, registered nurses, licensed physical therapists and licensed physical therapist assistants while performing said profession or vocation;

(3) A person working under the direction or supervision of individuals mentioned in paragraphs (b)(1) and (2) hereof while performing the said profession or vocation.

(Ord. 33-79. Passed 8-6-79.)

828.04 APPLICATION FOR MASSAGE ESTABLISHMENT LICENSE; FEE.

(a) Application for a license to operate a massage establishment, including a renewal license, required by Section 828.02(a), shall be made pursuant to this chapter at the office of the Manager on a form provided. Each application shall include a filing fee of two hundred dollars (\$200.00) which shall not be refundable.
(Adopting Ordinance)

(b) The application for a license to operate a massage establishment shall set forth the exact nature of the massage to be administered and the proposed place of business and facilities therefor.

(c) In addition to the foregoing, the applicant for a license, including any partner or limited partner of a partnership, and any officer or director of a corporate applicant, and any stockholder holding more than ten percent of the stock of a corporate applicant, shall furnish the following information:

(1) The applicant's name, address and social security number;

(2) A certified copy of the applicant's birth certificate which evidences that the applicant is at least eighteen years of age;

(3) All residential addresses of the applicant for the past three years;

(4) The applicant's physical description, including height, weight, color of eyes and hair;

(5) The business, occupation or employment of the applicant for the three years immediately preceding the date of the application;

(6) The business history of the applicant regarding previous licenses obtained or refused from any governmental agency, including revocations and suspensions and the reasons therefor;

(7) Criminal history information, including the date, time and place of conviction for all violations except traffic offenses;

(8) A set of fingerprints obtained by the Division of Police and a recent two-inch by two-inch color photograph of the applicant;

(9) If the applicant is a corporation, or a partner of a partnership which is incorporated, the name of the corporation, which shall be set forth exactly as shown on the Articles of Incorporation.

(Ord. 33-79. Passed 8-6-79.)

828.05 ISSUANCE OF LICENSE FOR MASSAGE ESTABLISHMENT; EFFECTIVE PERIOD.

(a) The Manager or his or her designate, pursuant to the provisions of this chapter, shall issue the license to maintain, operate or conduct a massage establishment to a designated person for a specific location upon receipt of an application, unless he or she finds:

(1) That the operation, as proposed by the applicant, if permitted, would not be in compliance with applicable laws, including, but not limited to, the building, health, planning, zoning and fire laws of the City and the housing code of the County, as well as the provisions of this chapter;

(2) That the applicant and any other person who will be directly or indirectly engaged in the management and operation of a massage establishment has been convicted of two or more felonies within the past five years or any sex offense within the past five years; or

(3) That the applicant does not contain all the required information or the application contains a material misrepresentation.

(b) A massage establishment license issued pursuant to this chapter shall terminate at the expiration of one year from the date of its issuance unless subject to suspension or revocation.

(Ord. 33-79. Passed 8-6-79.)

828.06 REVOCATION OR SUSPENSION OF ESTABLISHMENT LICENSE.

(a) The Manager or his or her designate shall refuse to issue or renew a massage establishment license or may revoke or suspend such license when he or she finds that:

(1) A section of this chapter was violated upon the establishment premises.

(2) A violation of another provision of this Municipal Code or of the Ohio Revised Code was committed upon the establishment premises.

(3) A material misrepresentation was made upon the application for a massage establishment permit.

(4) A law enforcement officer or health inspector was refused permission to inspect the premises or operation of the massage establishment during the hours of operation.

(5) A person who is not a licensed massage technician has administered a massage at the premises of the massage establishment.

(b) The issuance, renewal, denial, suspension or revocation of a massage establishment license shall be made pursuant to the provisions of this chapter, and any appeal of any such order shall be made to Council, in writing, within ten days following the date of any such order. Any appeal shall be heard by Council at its next regularly scheduled meeting following the filing of the appeal. At such hearing the person filing the appeal may appear in person or be represented by attorney and present such witnesses and evidence that he or she may desire. The Manager or his or her designate may appear and present such witnesses and evidence as may be necessary to support his or her action. A simple majority of the Council membership shall affirm, reverse or modify the decision appealed from and their decision shall be final.

(Ord. 33-79. Passed 8-6-79.)

828.07 APPLICATION FOR MASSAGE TECHNICIAN LICENSE; FEE.

(a) Application for the license required by Section 828.02, including a renewal license, shall be made pursuant to the provisions of this chapter at the office of the Manager on a form provided. Each application shall include a filing fee of one hundred dollars (\$100.00), which shall not be refundable.

(Adopting Ordinance)

(b) The application for a permit to operate as a massage technician shall contain the following information:

(1) The applicant's name, residence address and social security number;

(2) A physical description of the applicant, setting forth the applicant's weight, height, hair color and color of eyes;

(3) A recent two-inch by two-inch color photograph of the applicant and a set of fingerprints obtained by the Division of Police;

(4) A certified copy of the applicant's birth certificate which evidences that the applicant is at least eighteen years of age;

(5) The business, occupation and employment of the applicant for a three-year period preceding the date of the application;

(6) Criminal history information, including the date, time and place of all convictions for all violations except traffic offenses;

(7) Certification that the applicant has satisfactorily completed 160 hours of course instruction in anatomy, physiology and massage at a school of massage approved by the Ohio State Medical Board.

(Ord. 33-79. Passed 8-6-79.)

828.08 ISSUANCE OF LICENSE FOR MASSAGE TECHNICIAN;
EFFECTIVE PERIOD.

(a) The Manager or his or her designate shall, pursuant to this chapter, issue the license to engage in the business of or to be employed as a massage technician in the City upon receipt of an application, unless he or she finds that:

(1) The applicant has been convicted of two or more felonies within the past five years or any sex offense within the past five years.

(2) The application does not contain all the required information or the application contains a material misrepresentation.

(b) A massage technician license issued pursuant to this chapter shall terminate at the expiration of one year from the date of its issuance unless subject to suspension or revocation. (Ord. 33-79. Passed 8-6-79.)

828.09 REVOCATION OR SUSPENSION OF MASSAGE TECHNICIAN
LICENSE.

(a) The Manager or his or her designate shall refuse to issue or renew a massage technician license or may revoke or suspend such license where he or she finds any of the following:

(1) The massage technician has been convicted of two or more felonies within the past five years or any sex offense within the past five years.

(2) The massage technician violated any of the provisions of this chapter.

(b) The issuance, renewal, denial, suspension or revocation of a massage technician license shall be pursuant to the provisions of this chapter, and the appeal of any such order shall be to Council in the same manner as provided in Section 828.06(b).

(Ord. 33-79. Passed 8-6-79.)

828.10 REQUIRED FACILITIES.

No license to conduct a massage establishment shall be issued, renewed or continued unless an inspection discloses that the establishment complies with each of the following minimum requirements:

(a) A readable sign shall be displayed at the main entrance identifying the establishment as a massage establishment. All such signs shall be in compliance with the Zoning Code.

(b) Adequate equipment for disinfecting and sterilizing any instruments used for massage shall be provided.

(c) Hot and cold running water shall be provided.

(d) Closed cabinets shall be utilized for the storage of clean linen.

(e) Adequate dressing and toilet facilities shall be provided to patrons.

(f) All walls, ceilings, floors, steam or vapor rooms and all other physical facilities for the establishment shall be kept in good repair and maintained in a clean and sanitary condition.

(g) Clean and sanitary towels shall be provided for patrons receiving massage services. No common use of towels or linens shall be permitted.

(Ord. 33-79. Passed 8-6-79.)

828.11 OPERATING REQUIREMENTS.

(a) No license to conduct a massage establishment or to engage in the business of or be employed as a massage technician shall be issued, renewed or continued unless each of the following provisions is complied with by the massage establishment and/or massage technician:

(1) No massage technician shall administer a massage unless completely clothed in clean nontransparent garments at all times. The term "completely clothed" shall mean having on the upper portion of the body undergarments and either a blouse or a shirt which covers all of the upper body except the arms, neck and head, and on the lower body undergarments plus either pants or a skirt which covers the area from the waist to a point at least two inches above the knee.

(2) The massage patrons private parts shall be covered by a towel, cloth or undergarments when in the presence of a massage technician or massage establishment employee.

(3) A massage technician and massage establishment shall display his, her or its license in a conspicuous place where the massage is being administered.

(4) No massage technician shall engage in such business or profession except between the hours of 8:30 a.m. and 9:30 p.m., nor shall any operator of a massage establishment or business operate the same except between such hours.

(5) A massage establishment operator and a massage technician shall maintain for a period of one year correct and accurate records of the names and addresses of all persons to whom massages are administered, the date and time administered, the type of massage administered and the name of the person who administered the massage. Said records shall be subject to inspection during the hours of operation by any officer of the Division of Police.

(6) A massage technician shall not administer a massage to an individual of the opposite sex.

(7) The massage establishment facilities shall be subject to inspection by law enforcement officers or health inspectors during working or operating hours to assure compliance with the provisions of this chapter.

(8) A massage technician shall not fondle, touch or massage the sexual or genital area of any patron.

(9) A massage establishment operator shall provide the names of all employees and massage technicians working for the establishment to the office of the Manager within two days of the date the individual is employed.

(b) No massage technician or massage establishment operator shall knowingly violate a provision of subsection (a) hereof.

(Ord. 33-79. Passed 8-6-79.)

828.12 OUT-CALL MESSAGE SERVICE.

No massage technician or massage establishment shall provide an "out-call massage service" which is not in compliance with the provisions of this chapter.
(Ord. 33-79. Passed 8-6-79.)

828.13 TRANSFER OF LICENSES.

(a) No license issued under this chapter shall be transferable to another person or location without the express written authorization of the Manager or his or her designate.

(b) The change of location of a massage establishment shall require the submission of a new application and the issuance of a new license.

(Ord. 33-79. Passed 8-6-79.)

828.14 RULES AND REGULATIONS.

The Manager or his or her designate may make and enforce reasonable rules and regulations to carry out the intent of this chapter.

(Ord. 33-79. Passed 8-6-79.)

828.15 APPLICATION TO CURRENT PRACTITIONERS.

Any person who is actually engaged as a massage technician or an operator of a massage establishment upon the effective date of this chapter (Ordinance 33-79, passed August 6, 1979) shall have sixty days from that day to comply with the provisions of this chapter. However, a person operating as a massage technician on the date of passage of this chapter and who is otherwise operating in compliance with this chapter and who enrolls within sixty days from the effective date of this chapter in a school of massage, approved by the Ohio State Medical Board, may continue to operate as a massage technician as long as said enrollment continues, but not to exceed a period of one year.

(Ord. 33-79. Passed 8-6-79.)

828.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 836
Peddlers, Vendors, Canvassers, and Charitable Solicitations

836.01	Definitions.	836.08	Exceptions from license and fees.
836.02	Authority to issue license.	836.09	Compliance with State law.
836.03	License or registration required.	836.10	Falsification; misrepresentation.
836.04	License application.	836.11	Permissible hours.
836.05	License waiting period; investigation.	836.12	Prohibited soliciting; notice.
836.06	License fees.	836.13	Appeals.
836.07	License expiration; revocation or suspension.	836.99	Penalty.

CROSS REFERENCES

Home solicitation sales - see Ohio R.C. 1345.21 et seq.

Charitable solicitations - see Ohio R.C. Ch. 1716

Frozen desserts - see Ohio R.C. 3717.51 et seq.

Sales of goods and services within right-of-way of interstate and other State highways - see Ohio R.C. 5515.07

Soliciting business from motorists - see TRAF. 416.06

Littering - see GEN. OFF. 660.03, 660.035

836.01 DEFINITIONS.

As used in this chapter:

- (a) “Business” means the business carried on by any person who is an itinerant merchant, peddler or solicitor as defined in this chapter.
- (b) “Canvassing”, “canvassers” and “canvass” means the house-to-house distribution of ideas, pamphlets, literature, or the collection of signatures or support for any purpose or cause. This definition does not include solicitation, peddling, or vending, as those terms are defined in this section. This definition includes requesting contributions when such requests are made in conjunction with the house-to-house distribution of ideas, pamphlets, literature, or the collection of signatures or support for any purpose or cause. This definition includes both “contact canvassers” and “non-contact canvassers” as defined in subsections (b)(1) and (b)(2), hereof.
 - (1) “Contact canvassers” and “contact canvassing” mean those persons who canvass, as defined in subsection (a) hereof though in person, face-to-face contact, verbal or otherwise, with individual residents.

- (2) “Non-contact canvassers” and “non-contact canvassing” mean those persons who canvass, as defined in subsection (a) hereof, without attempting in person, face-to-face contact with individual residents, such as the distribution of leaflets and/or pamphlets by leaving them at a place of residence.
- (c) “Charitable purpose” shall be as defined in Ohio R.C. 1716.01(B)(1).
- (d) “City Manager” means the City Manager or his or her designee.
- (e) “Contribution” means the gift, sale for less than market value or purpose for more than market value of alms, food, clothing, money or property, including donations under the guise of a loan or money or property of the rental thereof for any charitable, religious or political use or purpose.
- (f) “Itinerant merchant” means any person, whether as an owner, agent or consignee, who engages in a temporary business of selling goods within the City and who, in the furtherance of such business, uses any building, structure, vehicle or place within the City.
- (g) “Peddler” means an itinerant solicitant/trader who sells wares which he or she may carry with him or her traveling about from place to place.
- (h) “Person” means any firm, co-partnership, corporation, company, association, joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- (i) “Political” and “political organization” shall not mean or include the term “charitable.” Such terms shall be given their commonly accepted definitions. It is not necessary that a person be a candidate for an office or in support of another person as a candidate to be included within the definition of “political” or “political organization”.
- (j) “Religious” and “religion” shall not mean and include the term “charitable”. Such terms shall be given their commonly accepted definitions.
- (k) “Solicit” and “solicitation” mean the method by which a peddler or vendor conveys his or her wares.
- (l) “Sunset” shall mean the time of day as designated by the U.S. Naval Observatory Astronomical Applications Department.
- (m) “Temporary use” for purposes of this chapter means a short term or seasonal use intended to promote or sell specific merchandise or products and shall include, but not be limited to special events, sidewalk sales, and outdoor seasonal sales.
- (n) “Vendor” means a person who transfers property by door-to-door sale.
- (o) “Youth fundraiser” and “youth fundraising” means fundraising for: (i) a K-12 school or school-related activity; or (ii) a youth organization such as an athletic club, Boy/Girl Scout troop, and the like, when such activity is undertaken by a person, age 18 or under. Youth fundraising activity, as contemplated by this definition, typically includes, but is not limited to, the sale of fundraising products such as popcorn, wrapping paper, candy, fruit or plants.
(Ord. 02-14. Passed 5-19-14.)

836.02 AUTHORITY TO ISSUE LICENSE.

The City Manager is hereby authorized to grant, issue, and revoke a license to any person who desires to vend, solicit, peddle or request contributions other than in conjunction with canvassing activity, under this chapter.

(Ord. 02-14. Passed 5-19-14.)

836.03 LICENSE OR REGISTRATION REQUIRED.

No person shall peddle, vend, solicit, or request contributions other than in conjunction with canvassing activity, for any purpose, charitable or otherwise, unless such person has obtained a license therefore from the City or unless the person meets one of the exceptions contained in Section 836.08. Such person shall carry the license required by this section and a photographic identification card at all times while exercising such calling, and shall upon demand, exhibit those items to any official of the City or occupant of any residence or business establishment being contacted.

(Ord. 02-14. Passed 5-19-14.)

836.04 LICENSE APPLICATION.

An application for a license to peddle, vend, solicit, or request contributions other than in conjunction with canvassing activity, shall be made on forms provided by the City. The license shall be issued only if the City Manager finds the following facts to exist:

- (a) All of the statements made in the application are true.
- (b) The applicant had provided a valid photographic identification card.
- (c) The applicant has a good character and reputation for honesty and integrity, or if the application is not an individual person, every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity, as evidenced by the absence of prior convictions of any felony or misdemeanor involving an offense of violence as defined in Ohio R.C. 2901.01(A)(9), or has committed a sexually oriented offense as defined in Ohio R.C. 2950.01 or conviction of any other crime, other than a traffic offense, which was in any way connected with the act of peddling, canvassing, vending, or soliciting.
- (d) The control and supervision of the solicitation will be under responsible persons who meet the qualifications specified in subsection (c) hereof.
- (e) The applicant has not engaged in any fraudulent transaction or enterprise as evidenced by the absence of civil or criminal convictions or pending investigations by any governmental agency.
- (f) The solicitation, vending, peddling, or request for contribution other than in conjunctions with canvassing activity, will not be a fraud on the public.

(Ord. 02-14. Passed 5-19-14.)

836.05 LICENSE WAITING PERIOD; INVESTIGATION.

The City Manager shall require a waiting period, after receipt of the information on the proper form, for the purpose of having the Division of Police make an independent

inquiry of the requirements specified in Section 836.04. The waiting period shall be no longer than two business days, beginning on the first business day after which the proper form is delivered to the City Manager. Upon objection of the Chief of Police, the license may be withheld.

(Ord. 02-14. Passed 5-19-14.)

836.06 LICENSE FEES.

The City Manager, before issuing the license required by this chapter, shall collect from each licensee a fee as determined by the City Manager in an amount not to exceed twenty dollars (\$20.00) for each license issued under this chapter. Each separate person shall have an individual license in order to solicit within the City.

(Ord. 02-14. Passed 5-19-14.)

836.07 LICENSE EXPIRATION; REVOCATION OR SUSPENSION.

Any license issued pursuant to this chapter shall expire not later than ten days following the date of issuance. Such a license may be revoked or suspended at any time by the City Manager if the holder:

- (a) Is found to have misrepresented any statement on the application for a license to peddle, vend, solicit, or request contributions other than in conjunction with canvassing activity;
- (b) Violates any of the provisions of this chapter;
- (c) Is the subject of a complaint for criminal trespass as defined by Section 642.12(a) of these Codified Ordinances; or
- (d) Is found to be convicted of any offense as included in subsection 836.04(c) herein.

(Ord. 02-14. Passed 5-19-14.)

836.08 EXCEPTIONS FROM LICENSE AND FEES.

Except as otherwise provided in Sections 836.11 and 836.12, the restrictions of this chapter do not apply to any canvassing activity, as defined in Section 836.01(b), or to youth fundraising activity, as defined in Section 836.01(o). These exceptions are adopted, among other reasons and without limitation, on the following grounds:

- (a) That canvassing activity, although it may involve requesting contributions, is principally conducted as an expression of core political speech and presents a lower risk of fraud, theft, or other criminal conduct than that presented by other house-to-house activities.
- (c) That youth fundraising activity is engaged in by minors who are likely to be recognized by their neighbors and present a lower risk of fraud, theft, or other criminal conduct than that presented by other house-to-house activities.

(Ord. 02-14. Passed 5-19-14.)

836.09 COMPLIANCE WITH STATE LAW.

A representative of a charitable organization, as defined in Ohio R.C. Chapter 1716, may be required, if requested by the City Manager or his or her designee, to provide certification that such organization is duly registered with the Ohio Attorney General's Office.

(Ord. 02-14. Passed 5-19-14.)

836.10 FALSIFICATION; MISREPRESENTATION.

No person required to obtain a license to solicit, peddle, vend or request contributions other than in conjunction with canvassing activity under this chapter shall register a false or fictitious name or address or represent by words or action that he or she is the employee, agent, partner, or representative of any person or organization, when in fact, he or she is not the employee, agent, partner, or representative of such person or organization.

(Ord. 02-14. Passed 5-19-14.)

836.11 PERMISSIBLE HOURS.

(a) All peddling, vending, soliciting, youth fundraising activity and requests for contributions other than in conjunction with canvassing activity, permitted under this chapter may be made only between the hours of 9:00 a.m. and sunset.

(b) All canvassing activity permitted under this chapter may be made only between the hours of 9:00 a.m. and 9:00 p.m.

(Ord. 02-14. Passed 5-19-14.)

836.12 PROHIBITED SOLICITING; NOTICE.

No person shall knock at the door or ring the doorbell of any residence, apartment, or other dwelling unit in the City upon which is clearly displayed at the entrance a notice that reads "NO SOLICITORS" or that otherwise clearly purports to prohibit peddlers, contact canvassers, vendors, solicitors, or persons requesting contributions, unless such person is or has been invited upon the premises by the occupant thereof.

(Ord. 02-14. Passed 5-19-14.)

836.13 APPEALS.

The City Manager shall give notice of a refusal to issue a license required by this chapter to the applicant. The applicant may appeal such refusal to Council by filing a written Notice of Appeal with the Clerk of Council within ten days after such refusal and at least seven days before the Council meeting at which the appeal shall be heard. The appeal shall state briefly the grounds for appeal. The applicant may appeal before Council, in person or by attorney. The decision of Council shall be final.

(Ord. 02-14. Passed 5-19-14.)

836.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of an unclassified misdemeanor and shall be fined not more than one thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 02-14. Passed 5-19-14.)

CHAPTER 838
Adult Entertainment (Repealed)

EDITOR'S NOTE: Chapter 838 was repealed in its entirety by Ordinance 14-08, passed December 15, 2008. For provisions regarding adult entertainment, see the Unified Development Code, available at the Centerville Municipal Building, Clerk's Office or Planning Department.

[Chapter 840 begins on Page 18W]

CHAPTER 840
Rental Unit Inspection Regulations

840.01	Residential rental unit	840.04	Appeal.
	mandatory inspection required.	840.05	Exemption.
840.02	Access to rental unit.	840.99	Penalty.
840.03	Notice of violation.		

840.01 RESIDENTIAL RENTAL UNIT MANDATORY INSPECTION REQUIRED.

(a) The owner or operator of a premises with a residential rental unit shall have the interior and exterior of the premises, its structures and its rental units inspected biennially, to determine compliance with the Property Maintenance Code and Zoning Code.

(b) The owner or operator of a premise with a rental unit is subject to have the interior and exterior of the premises, its structures and its rental units inspected prior to the biennial inspection under any of the following circumstances:

- (1) If two or more notices and orders to comply have been issued to the owner or operator pursuant to any section of this chapter relating to the violation of any sections of the codes set forth in this section, within any two-year period, concerning the same premises, and have not been complied with within the time provided in the notices and orders to comply, the premises that was the subject of the notices and orders to comply shall be subject to mandatory inspections as specified in this section; or
- (2) If the owner or operator has been convicted of a violation of any sections of the codes set forth in this section, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section; or
- (3) If the owner or operator has had a premises ordered razed by the Code Official, all premises and structures with a rental unit that the owner owns or that the operator operates shall be subject to mandatory inspections as specified in this section; or
- (4) In response to a complaint of an alleged violation of any of the provisions of this chapter or the provisions of the applicable City codes; or
- (5) The failure of the owner to file with the County Auditor the information required by Ohio R.C. 5323.02.

(c) A notice and order to comply that is outstanding on or after September 28, 2006, or that is issued subsequent to September 28, 2006, may constitute an uncomplined notice

and order to comply for purposes of enforcement of the mandatory inspections required by division (b)(1) of this section.

(d) A conviction that was obtained on or after September 28, 2006 shall constitute a conviction for purposes of enforcement of the mandatory inspections required by division (b)(2) of this section.

(e) A raze order that the Code Official issued on or after September 28, 2006 shall constitute a raze order for purposes of enforcement of the mandatory inspections required by division (b)(3) of this section.

(f) No owner or operator of a premises with a rental unit shall fail to obtain a rental unit mandatory inspection from the Division of Inspection when the provisions of this section require a rental unit mandatory inspection.

(g) No fee shall be required for the biennial mandatory inspection.

(h) A rental unit mandatory re-inspection fee of seventy-five dollars (\$75.00) per hour for each re-inspection subsequent to the first inspection shall be paid.
(Ord. 19-06. Passed 7-17-06; Ord. 29-06. Passed 12-18-06.)

840.02 ACCESS TO RENTAL UNIT.

(a) Access by Owner or Operator. Every occupant of a rental unit shall give, upon proper notice, the owner or operator thereof, or his or her agent or employee, access to any part of such rental unit at all reasonable times for the purpose of effecting such maintenance, making such repairs or making such alterations as are necessary to effect compliance with any lawful notice or order issued pursuant to the provisions of the applicable City codes.

(b) Access by Code Official. The Code Official or his or her duly authorized designee is hereby authorized to conduct inspections of any rental unit within the City in order to perform the duty of safeguarding the health, safety and welfare of the occupants and the public under the provisions of this chapter. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or the provisions of the applicable City codes or whenever the Code Official or his or her duly authorized designee has probable cause to believe that there exists in any rental unit any condition which makes such rental unit in violation of any of the provisions of this chapter or the provisions of the applicable City codes or in response to a complaint that an alleged violation of any of the provisions of this chapter or the provisions of the applicable City codes may exist, the Code Official or his or her duly authorized designee may enter such rental unit at all reasonable times to inspect the same or to perform any duty imposed upon the Code Official by this chapter or the provisions of the applicable City codes, provided that if such rental unit is occupied, he or

she shall first make a reasonable effort to locate the owner/operator or other person having charge or control of the rental unit and request entry, giving 24-hour notice. The owner/operator shall contact the occupant (if any) of each unit and schedule a date and time for the inspection. The owner/operator shall give notice to the Code Official of the date and time of each inspection. In addition, the owner/operator shall give notice of the inspection date and time, pursuant to Ohio R.C. 5321.04(A) and 5321.05(B), to the occupants who are subject to the inspection. Failure to provide said notice to an occupant shall subject the owner/operator to the penalties provided in Section 840.99. The Code Official or his or her duly authorized designee shall at such time of inspection:

- (1) Identify himself or herself and his or her position;
- (2) Explain why entry is sought;
- (3) Explain that the owner/operator, occupant or other person(s) having charge or control of the rental unit may refuse entry without a search warrant;
- (4) Provide documentation of written notice to the owner/operator, giving seven-day notice of deficiency. Such notice shall not be construed to imply that the repairs need be completed at that time.

(c) Entry for Inspection Refused. In the event that entry for inspection has been refused by the owner/operator, occupant or other person having charge of the rental unit, the person refusing such entry may be subject to penalties as provided for in Section 840.99.

(d) Search Warrant. If consent to inspect a rental unit is withheld by any person or persons having the lawful right to exclude, the Code Official or his or her duly authorized designee may apply to a court of competent jurisdiction for a search warrant of the rental unit. No owner/operator or occupant or any person having charge, care or control of a rental unit shall fail or neglect, after presentation of a search warrant, to properly permit entry therein by the Official or his or her duly authorized designee for the purpose of inspection and examination pursuant to this chapter.

(Ord. 19-06. Passed 7-17-06; Ord. 7-07. Passed 6-18-07; Ord. 8-07. Passed 7-16-07; Ord. 11-08. Passed 8-18-08.)

840.03 NOTICE OF VIOLATION.

Whenever, upon inspection of a dwelling unit, the Code Official finds that conditions or practices exist which are in violation of ordinances of the City, any authorized notice of violation shall state that unless the violations are corrected as specified in the notice, the owner shall be cited for violating this chapter and is subject to the remedy set forth in Section 840.99.

(Ord. 19-06. Passed 7-17-06.)

840.04 APPEAL.

Any owner who has received an order pursuant to Section 840.01(b) above shall be entitled to appeal the order to the Property Review Commission pursuant to Chapter 1480

by filing a notice of appeal with the Clerk of Council within five days following the date of the notice.

(Ord. 19-06. Passed 7-17-06.)

840.05 EXEMPTION.

This chapter shall not apply to any dwelling unit for which an occupant has paid a one-time lump sum entry fee in exchange for lifetime rights to occupy the unit and receive health-related and other personal services from the legal owner.

(Ord. 29-06. Passed 12-18-06.)

840.99 PENALTY.

A violation of the requirements of Sections 840.01 through 840.03 shall constitute a fourth degree misdemeanor, punishable by a fine of not more than two hundred fifty dollars (\$250.00), or imprisoned not more than 30 days, or both, for each offense. Each day such violation is continued shall constitute a separate offense.

(Ord. 19-06. Passed 7-17-06; Ord. 7-07. Passed 6-18-07; Ord. 8-07. Passed 7-16-07.)

CHAPTER 842
Competitive Video Service Authorizations

842.01	Definitions.	842.07	Access programming requirement.
842.02	VSP fee, percentage, and audit.	842.08	Fee payment requirements.
842.03	VSP fee notice provision.	842.09	PEG origination point.
842.04	MVCC management authorization.	842.10	Notice requirement.
842.05	Additional MVCC management authorization.	842.11	Application to incumbent cable providers.
842.06	VSP access provision.	842.12	Customer service standards.
		842.99	Penalty.

842.01 DEFINITIONS.

As used in this chapter:

- (a) “Incumbent cable provider” means any person who on the effective date of this section is the holder of a cable franchise agreement with the City as granted pursuant to requirements of 47 U.S.C. 541.
- (b) “Miami Valley Communications Council” or “MVCC” means the Miami Valley Communications Council, which currently represents its eight member cities of Centerville, Germantown, Kettering, Miamisburg, Moraine, Oakwood, Springboro, and West Carrollton. MVCC is governed by a policy-making body consisting of delegates representing the eight member cities. MVCC additionally maintains agreements with 18 other Miami Valley political subdivisions who participate as affiliate members. MVCC is managed by an appointed Executive Director and his or her staff.
- (c) “PEG” means the activities or actions performed for the benefit of public, educational and government video programming by the City or MVCC.
- (d) “Video service” means the service defined in Ohio R.C. 1332.21(J).
- (e) “Video service authorization” or “VSA” means the authorization granted to a video service provider in accordance with the requirements of Ohio R.C. 1332.21 to 1332.34 et seq.
- (f) “Video service provider” or “VSP” means a person, firm, or corporation granted a video service authorization under Ohio R.C. 1332.21 to 1332.34 et seq.
- (g) “Video service provider fee” or “VSP fee” means the fee paid by a VSP in accordance with the requirements of Ohio R.C. 1332.32.
(Ord. 22-07. Passed 11-19-07.)

842.02 VSP FEE, PERCENTAGE, AND AUDIT.

(a) Not sooner than 45 nor later than 60 days after the end of each calendar quarter, a video service provider shall pay a video service provider fee to the City. The fee shall be calculated quarterly by determining the provider's gross revenue for the preceding calendar quarter as described in division (b) of this section and multiplying the result by the percentage specified in division (c)(1) or (2) of this section.

(b) Gross revenue shall be computed in accordance with generally accepted accounting principles.

- (1) Gross revenue shall consist of all of the following revenue for the calendar quarter that is collected by the provider for video service from all its subscribers having service addresses within the City:
 - A. Recurring monthly charges for video service;
 - B. Event-based charges for video service, including, but not limited to, pay-per-view and video-on-demand charges;
 - C. Charges for rental of set-top boxes and other video service equipment;
 - D. Service charges related to the provision of video service, including, but not limited to activation, installation and repair;
 - E. Administrative charges related to the provision of video service, including, but not limited to service order and service termination charges;
 - F. Advertising revenue. For these purposes, "advertising revenue" means the net revenue received by the video service provider for advertising on its subscription-based video service within the City. If such revenue is derived under a regional or national compensation contract or arrangement between the video service provider and one or more advertisers or advertising representatives, the amount of revenue derived for the City shall be determined by multiplying the total net revenue received by the video service provider under the contract or arrangement by the percentage resulting from dividing the number of subscribers in the City by the total number of regional or national subscribers that potentially receive the advertising under the contract or arrangement.
- (2) Gross revenue shall not include any of the following:
 - A. Any taxes, fees, or assessments that are collected by the video service provider from video service subscribers for pass-through to any Federal, State, or local government agency, including the video service provider fee authorized under this section, the fee authorized under Ohio R.C. 1332.30(F), and the Federal Communication Commission user fee;
 - B. Uncollectible charges, except that uncollectible charges, all or part of which are written off as bad debt but subsequently collected, less the

expenses of their collection shall be included in gross revenue in the quarter collected;

- C. Late payment charges;
 - D. Maintenance charges;
 - E. Charges for services other than video service, reasonably identifiable on books or records the video service provider keeps in the regular course of business, or by other reasonable means, that are aggregated or bundled with amounts billed to video service subscribers, including, but not limited to any revenue received by a video service provider or its affiliates for telecommunications service, information service, or the provision of directory or internet advertising, including yellow pages, white pages, banner advertising, and electronic publishing;
 - F. Reimbursement by programmers of marketing costs actually incurred by the video service provider;
 - G. Any revenue not expressly enumerated in division (b)(1) of this section.
- (c) (1) If in a calendar quarter a franchise fee is payable by a provider under a franchise in effect in the City, the percentage of gross revenue payable in that calendar quarter by the video service provider to the City shall be the same percentage of gross revenue payable in that calendar quarter pursuant to that franchise, not to exceed 5%.
- (2) Otherwise, the percentage shall be 5% of a video service provider's gross revenues, as calculated in accordance with this chapter.
- (d) A video service provider that pays a video service provider fee pursuant to this section may identify and collect the amount of that fee as a separate line item on the regular bill of each of its video service subscribers that has a service address within any portion of the City.
- (e) (1) At its sole expense and not more often than once per calendar year, the City or its designee may conduct an audit for the purpose of verifying the accuracy of a video service provider's calculation of the video service provider fees it paid to City in the audit period. For the purpose of the audit, the video service provider shall make available for inspection, at the location where such records are kept in the normal course of business, those records pertaining to its gross revenue as defined in 842.02(b).
- (2) A video service provider shall pay any amounts found to have been underpaid in the audit within 30 days after notice and shall include interest on the underpayments. However, payment need not be made in that 30-day period if the video service provider brings an action under division (e)(3) of this section.

- (3) An action by the City or by the video service provider to dispute the amount of video service provider fee due based on the audit results may be brought in a court of competent jurisdiction not later than two years following the end of the quarter to which the disputed amount relates.
(Ord. 22-07. Passed 11-19-07.)

842.03 VSP FEE NOTICE PROVISION.

Upon receipt of notice from a VSP that it will begin providing video service in the City pursuant to a State-issued video service authorization, the City Manager or his or her designee is authorized and directed to provide such VSP with notice of the VSP fee as determined by this Council in Section 842.02, which notice shall be delivered in a manner that provides for proof of timely delivery.

(Ord. 22-07. Passed 11-19-07.)

842.04 MVCC MANAGEMENT AUTHORIZATION.

The City authorizes the Community Programming Board ("MVCC") to manage and direct the City's cable franchise management, public, educational, and government access programming and franchise fee collection activities, and further directs MVCC to manage and direct the City's VSA public, educational, and government access programming and VSP fee collection activities as may be necessary under Ohio R.C. 1332.21 through 1332.34 et seq., all until such time as the City may terminate or revoke such grant of authority.

(Ord. 22-07. Passed 11-19-07.)

842.05 ADDITIONAL MVCC MANAGEMENT AUTHORIZATION.

The MVCC shall coordinate regulatory efforts for the City and provide expertise on other matters regarding cable franchises, cable service providers, VSAs, VSPs, and other electronic media. Additional responsibilities shall include the creation and promotion of the community media center and PEG access channels, the establishment and review of programming policies, resolution of policy disputes and questions of equal treatment for access users, and fiscal controls. If matters of contract interpretation arise concerning community programming, the MVCC shall be consulted.

(Ord. 22-07. Passed 11-19-07.)

842.06 VSP ACCESS PROVISION.

Upon receipt of notice from a VSP that it will begin providing video service in the City pursuant to a VSA, the City Manager or his or her designee is authorized and directed to provide such VSP with notice that the VSP shall be required to provide the same number of PEG channels in the City under the same service tier conditions and subject to the same channel reclamation conditions as may be proscribed by Ohio R.C. 1332.30(A)(1)(a) and (b) for the incumbent cable provider with the most recent obligation in the City, which notice shall be delivered in a manner that provides for proof of timely delivery and shall state

the appropriate number of PEG channels and service tiers required to be provided by the VSP within the City within 120 days after delivery of such notice.
(Ord. 22-07. Passed 11-19-07.)

842.07 ACCESS PROGRAMMING REQUIREMENT.

In accordance with the requirements of Ohio R.C. 1332.30(A)(I)(a), when more than three PEG access channels are provided to the City by an incumbent cable provider or VSP, such additional channel shall be programmed by the City with at least 40 hours of non-character generated content per week with at least 60% of the programming being non-repeat and locally produced. For the purposes of this section, “non-repeat and locally produced” shall mean the first three playbacks of programming produced or provided by any local resident, the MVCC or its affiliates, or any local public or private agency that provides services to residents of the greater Dayton Metro area, or any transmission of a meeting or proceeding of any local, State, or Federal governmental entity.
(Ord. 22-07. Passed 11-19-07.)

842.08 FEE PAYMENT REQUIREMENTS.

Any VSP fee or community service fee payments required to be paid to the City by a VSP shall be made quarterly and be remitted directly to the Community Programming Board via a negotiable instrument made payable to the City of Centerville, Miami Valley Communications Council, 1195 Alex Bell Road, Centerville, Ohio 45459, not later than 60 days after the end of a calendar quarter.
(Ord. 22-07. Passed 11-19-07.)

842.09 PEG ORIGINATION POINT.

The PEG programming origination point of the City for the delivery of VSP access services shall be located at the MVCC office location — 1195 Alex Bell Road, Centerville, Ohio 45459.
(Ord. 22-07. Passed 11-19-07.)

842.10 NOTICE REQUIREMENT.

Any notice to the City that is required of a VSP in accordance with of Ohio R.C. 1332.21 through 1332.34 shall be provided in written form to both the City Manager and the Executive Director of the MVCC either by certified mail, express mail or upon personal delivery, all evidenced by a return receipt.
(Ord. 22-07. Passed 11-19-07.)

842.11 APPLICATION TO INCUMBENT CABLE PROVIDERS.

Nothing in this section shall apply to incumbent cable providers until they are granted a video service authorization in accordance with Ohio R.C. 1332.21 through 1331.34 et seq.
(Ord. 22-07. Passed 11-19-07.)

842.12 CUSTOMER SERVICE STANDARDS.

(a) When requested to do so, a video service provider shall assist the City in addressing video service subscriber complaints, in a manner consistent with the provider's complaint handling process.

(b) A video service provider shall meet all of the following customer service standards:

- (1) The provider shall restore video service within 72 hours after a subscriber reports a service interruption or other problem if the cause was not a natural disaster.
- (2) Upon a report by a subscriber of a service interruption, and if the interruption is caused by the video service provider and lasts for more than four hours in a given day, the provider shall give the subscriber a credit in the amount of the cost of each such day's video service as would be billed to the subscriber.
- (3) Upon a report by a subscriber of a service interruption, and if the interruption is not caused by the video service provider and lasts for more than 24 consecutive hours, the provider shall give the subscriber, for each hour of service interruption, a credit in the amount of the cost of per-hour video service as would be billed to the subscriber.
- (4) The provider shall give a subscriber at least 30 days' advance, written notice before removing a channel from the provider's video service, but no such notice is required if the provider must remove the channel because of circumstances beyond its control.
- (5) The provider shall give a subscriber at least ten days' advance, written notice of a disconnection of all or part of the subscriber's video service, except if the disconnection has been requested by the subscriber, is necessary to prevent theft of video service, or is necessary to reduce or prevent signal leakage as described in 47 C.F.R. 76.611.
- (6) The provider shall not disconnect all or part of a subscriber's video service for failure of the subscriber to pay its video service bill, until the bill is at least 45 days past due.
- (7) The provider shall give a subscriber at least 30 days' advance, written notice before instituting an increase in video service rates.

(Ord. 22-07. Passed 11-19-07.)

842.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than 60 days or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 22-07. Passed 11-19-07.)

CHAPTER 844
Mobile Food Vehicle Vendors

844.01	Definitions.	844.07	Exemptions.
844.02	General restrictions.	844.08	Suspension and revocation.
844.03	License required.	844.09	Closure for operation without a license.
844.04	Authority to issue license.	844.10	Appeals.
844.05	Form and condition of license.	844.99	Penalty.
844.06	License fee.		

844.01 DEFINITIONS.

As used in this chapter:

- (a) "City Manager" means the City Manager or his/her designee.
- (b) "Mobile food vehicle" means a commercially manufactured, self-contained, motorized, vehicle currently licensed by the Ohio Department of Motor Vehicles in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.
- (c) "Temporary use" means a short term or seasonal use intended to promote or sell specific merchandise or products and shall include, but not limited to special events, sidewalk sales, and outdoor seasonal sales.
(Ord. 8-13. Passed 7-15-13.)

844.02 GENERAL RESTRICTIONS.

(a) It shall be unlawful for any person to operate a mobile food vehicle within the City without first having obtained a valid mobile food vending license as prescribed in this chapter.

(b) A mobile food vehicle shall be operated or parked so as not to obstruct or impede the normal movement of traffic.

- (c) A mobile food vehicle may operate in the public right-of-way provided:
 - (1) A mobile food vehicle shall not operate on a street designated as a thoroughfare street on the Centerville Thoroughfare Plan.
 - (2) A mobile food vehicle may be operated for sales purposes between the hours of 11:00 a.m. and 8:30 p.m.
 - (3) A mobile food vehicle shall be parked or stopped with the curb-side wheels parallel with and not more than twelve inches from the curb when food items are sold, dispensed or prepared.
 - (4) All items shall be sold, offered for sale or dispensed only from the right hand (curb side) of a mobile food vehicle.

- (5) Flashing lights shall be operated continuously at all times when a mobile food vehicle is parked or stopped so as to be clearly visible to drivers of other vehicles approaching such vehicle from the front or rear.
- (6) Sound emanating from a mobile food vehicle shall be in accordance with the sound requirements contained in the Unified Development Ordinance (UDO) Article 9.53.
- (7) A mobile food vehicle shall not remain stationary in one location for longer than one hour while operating for sales purposes. This restriction does not prohibit a mobile food vehicle which is not open for business and operating for sales purposes from being legally parked for longer than one hour. After a mobile food vehicle has been stationary in one location and operating for sales purposes for a period of one hour, the mobile food vehicle must be moved to a location at least 100 yards from the previous location.

(d) A mobile food vehicle may operate on private property in accordance with all requirements of Chapter 1216, Unified Development Ordinance, Article 9.05 A 10, Mobile Food Vehicle Vendors.

(Ord. 8-13. Passed 7-15-13.)

844.03 LICENSE REQUIRED.

Any person desiring to operate a mobile food vehicle shall make a written application for such license to the City Manager's Office. The application for such license shall be on forms provided by the City Manager and shall include the following:

- (a) Name, signature and address of each applicant and each corporate officer of the mobile food vehicle vending corporation.
- (b) A valid copy of all necessary licenses, permits or certificates required by the County of Montgomery, the State of Ohio or any subsidiary enforcement agencies or departments thereof, including, but not limited to: a valid Ohio Department of Motor Vehicle Registration and Certificate of Inspection and valid driver's licenses of all vehicle operators.
- (c) A signed statement that the vendor shall hold harmless the City and its officers and employees, and shall indemnify and hold harmless the City and its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under terms of the license. Vendor shall furnish and maintain such public liability, food products liability, and property insurance, as will protect vendor and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty days written notice served upon the City Manager. A license issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with City Manager.

(Ord. 8-13. Passed 7-15-13; Ord. 16-14. Passed 8-18-14.)

844.04 AUTHORITY TO ISSUE LICENSE.

The City Manager is hereby authorized to grant, issue and revoke a license to any person who desires to operate a mobile food vehicle under this chapter.
(Ord. 8-13. Passed 7-15-13.)

844.05 FORM AND CONDITION OF LICENSE.

Every mobile food vehicle vending license shall contain the following conditions:

- (a) Each mobile food vehicle vending license shall expire on April 1st of every year;
- (b) The license shall not be transferable from person to person without written approval of the City Manager;
- (c) The license is valid for one vehicle only; and
- (d) There shall be issued to each vendor a suitable decal that shall be permanently and prominently affixed to the vehicle.

(Ord. 8-13. Passed 7-15-13.)

844.06 LICENSE FEE.

All vendors licensed under this chapter shall pay an annual license fee of two hundred dollars (\$200.00).
(Ord. 8-13. Passed 7-15-13.)

844.07 EXEMPTIONS.

The restrictions set forth in Section 844.02 and the license obligations set forth in Section 844.03 for a mobile food vehicle shall not be required if the operation of the mobile food vehicle meets all of the following:

- (a) The mobile food vehicle's operations are located solely on City-owned property in connection with a private event for which a rental contract has been granted by the City;
- (b) Food provided by the mobile food vehicle is solely distributed to event patrons and guests in connection to the private event referenced under subsection (a) of this section;
- (c) Charges for food provided to patrons and guests is covered by the event sponsor and not directly paid by patrons and guests to the operator of the mobile food vehicle; and
- (d) All required licenses issued by other governmental agencies to legally serve food to guest and patrons are obtained by the mobile food vehicle. Proof of such licenses shall be provided by the mobile food vehicle operator upon the request by the City.

(Ord. 16-14. Passed 8-18-14.)

844.08 SUSPENSION AND REVOCATION.

(a) The owner/operator of any mobile food vehicle licensed by the City shall comply with all provisions of Federal, State and local laws and ordinances.

(b) The owner/operator of any mobile food vehicle licensed by the City shall comply with all notices, orders, decisions and rules and regulations made by the Centerville Police Department or any other City of Centerville department and/or agency.

(c) Any person, firm, corporation or other entity violating the provisions of this chapter may be liable for penalties as prescribed in Section 844.99 and may be subject to immediate closure by the Centerville Police Department and/or the City Manager's Office; an Administrative Hearing will be scheduled within sixty days of said immediate closure. (Ord. 8-13. Passed 7-15-13.)

844.09 CLOSURE FOR OPERATION WITHOUT A LICENSE.

Any establishment operating without the required City license shall be immediately closed by order of the Centerville Police Department. Every day of operation without a license shall constitute a separate violation. (Ord. 8-13. Passed 7-15-13.)

844.10 APPEALS.

The City Manager shall give notice of a refusal to issue a license required by this chapter to the applicant. The applicant may appeal such refusal to Council by filing a written notice of appeal with the Clerk of Council within ten days after such refusal and at least seven days before the Council meeting at which the appeal shall be heard. The appeal shall state briefly the grounds for appeal. The applicant may appeal before Council, in person or by attorney. The decision of Council shall be final. (Ord. 8-13. Passed 7-15-13.)

844.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of an unclassified misdemeanor and shall be fined not more than one thousand dollars (\$1,000) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 8-13. Passed 7-15-13.)

TITLE EIGHT - Taxation

- Chap. 870. Hotel-Motel Tax.
 Chap. 880. Earned Income Tax.
 Chap. 890. Community Reinvestment Area.
 Chap. 892. Municipal Motor Vehicle License Tax.

CHAPTER 870
 Hotel-Motel Tax

870.01	Definitions.	870.08	Reporting and remitting the tax.
870.02	Levy of 3% tax for transient guests.	870.09	Penalties and interest.
870.03	Exemptions.	870.10	Failure to collect and report tax; determination of tax by Director of Finance.
870.04	Refusal to pay tax; false evidence of tax-exempt status.	870.11	Appeals.
870.05	Tax to be separately stated and charged.	870.12	Actions to collect.
870.06	Registration; transient occupancy registration certificate.	870.13	Refunds.
870.07	Records, inspection, destruction.	870.14	Disbursement of funds.
		870.15	Violations.
		870.16	Separability.

870.01 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except if the context clearly indicates or requires a different meaning:

- (a) "Director of Finance" means the Director of Finance of the City of Centerville, Ohio.
- (b) "Hotel" or "motel" means every Greene County or Montgomery County establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (c) "Occupancy" means the use or possession or the right to use or possession of any room or rooms or space or portion thereof in any hotel or motel for dwelling, lodging or sleeping purposes. The use or possession or right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered occupancy within the meaning of this definition unless the person exercising occupancy

uses or possesses, or has the right to use or possess all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.

- (d) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- (e) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which the occupancy is liable for the occupancy without any deduction therefore whatsoever.
- (f) "Transient guests" mean persons occupying a room or rooms for sleeping accommodations for less than 30 consecutive days.
(Ord. 12-07. Passed 9-17-07; Ord. 31-12. Passed 1-28-13.)

870.02 LEVY OF 3% PERCENT TAX FOR TRANSIENT GUESTS.

(a) For the purpose of providing revenue with which to meet the needs of the City, for the use of the general fund of the City, there is hereby levied a tax of 3% on all rents received by a hotel or motel for lodging furnished to transient guests.

(b) The tax constitutes a debt owed by the transient guest to the City. Such debt may be extinguished only by payment to the operator as trustee for the City or by payment to the City.

(c) The transient guest shall pay the tax to the operator of the hotel or motel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due from each transient guest at the time such guest ceases to occupy space in the hotel or motel. If, for any reason, the tax due is not paid to the operator of the hotel or motel, the Director of Finance may require that such tax shall be paid directly to the Director of Finance by the hotel or motel operator.

(Ord. 12-07. Passed 9-17-07.)

870.03 EXEMPTIONS.

(a) No tax shall be imposed under this chapter:

- (1) Upon rents not within the taxing power of the City under the constitution or laws of the State of Ohio or the United States;
- (2) Upon rents paid by the State of Ohio or any of its political subdivisions.

(b) No exemptions claimed under this section shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Director of Finance. Any claims of exemption hereunder shall be made in the manner prescribed by the Director of Finance.

(Ord. 12-07. Passed 9-17-07.)

870.04 REFUSAL TO PAY TAX; FALSE EVIDENCE OF TAX-EXEMPT STATUS.

(a) No transient guest shall refuse to pay the full and exact tax required by this chapter or present to the operator false evidence indicating that the lodging as furnished is not subject to the tax.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the operator, and the operator must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed that the tax applies.

(Ord. 12-07. Passed 9-17-07.)

870.05 TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof at the time the occupancy is arranged or contracted and charged for. Such tax shall also be stated separately upon every evidence of occupancy or any bill, statement or charge made for the occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the City, and the operator shall be liable to the City for the collection thereof and for the tax.

(b) No operator of a hotel or motel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded, except in the manner hereinafter provided.

(Ord. 12-07. Passed 9-17-07.)

870.06 REGISTRATION; TRANSIENT OCCUPANCY REGISTRATION CERTIFICATE.

(a) Within 30 days after the effective date of this chapter, or within 30 days after commencing business, whichever is later, each operator of any hotel or motel renting lodging to transient guests shall register the hotel or motel with the Director of Finance and obtain from him or her a transient occupancy registration certificate to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the hotel or motel; and
- (3) The date upon which the certificate was issued.

(b) The transient occupancy registration certificate shall read as follows:

“This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the

Hotel-Motel Tax Chapter by registering with the Director of Finance of the City of Centerville for the purpose of collecting from transient guests the hotel-motel tax and remitting the tax to the Director of Finance. This certificate does not constitute a permit.”

(Ord. 12-07. Passed 9-17-07.)

870.07 RECORDS, INSPECTION, DESTRUCTION.

Each operator shall keep complete and accurate records of all lodging furnished and of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the operator furnishes lodging not subject to the tax, the operator's records shall show the identity of the transient guest, if the sale was not exempted by reason of such identity, or shall show the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours for inspection by the Director of Finance or his or her agents and shall be preserved for a period of four years, unless the Director of Finance, in writing, consents to their destruction within that period, or unless the four-year period is extended by any order requesting that such records be kept for a longer period of time.

(Ord. 12-07. Passed 9-17-07.)

870.08 REPORTING AND REMITTING THE TAX.

(a) On or before the last day of each calendar month, each operator shall make and file a return for the preceding month on forms prescribed by the Director of Finance. Such returns shall show the receipts from furnishing lodging, the amount of tax due from the operator to the City for the period covered by the return, and such other information as the Director of Finance deems necessary for the proper administration of this chapter. The Director of Finance may extend the time for making and filing returns. Returns shall be filed by delivering or mailing the same to the Director of Finance, together with payment of the full amount of tax shown to be due thereon.

(b) All forms for claims for exemptions from tax filed by transient guests with the operator during the reporting period shall be filed with the return.

(c) On or before April 30 of the year following the effective date of this chapter, and each year thereafter, every operator subject to the provisions of this chapter shall make and file with the Finance Director an annual income statement clearly showing the gross room sales for the annual accounting period. If the reconciliation (return) is made for a fiscal year or any period less than a year, the reconciliation shall be made within four months from the end of such fiscal year or other period.

(d) All returns and payments submitted by each operator shall be treated as confidential by the Director of Finance and shall not be released by him or her except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of Ohio, the County of Greene or the City of Centerville, for official use only.

(e) If for any reason the hotel or motel shall cease doing business in the City, all returns and payments are due immediately upon cessation of business.

(f) All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the City until payment thereof is made to the Director of Finance. The returns shall be signed by the operator or his or her authorized agent.
(Ord. 12-07. Passed 9-17-07.)

870.09 PENALTIES AND INTEREST.

(a) Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to 10% of the amount of the tax due, in addition to the tax.

(b) Continued Delinquency. Any operator who fails to remit any delinquent remittances on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty equal to 10% of the amount of the tax and previous penalty first imposed. An additional penalty equal to 10% of the total tax and penalty of the previous 30-day period shall be added for each successive 30-day period the account remains delinquent.

(c) Fraud. If the Director of Finance determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to 25% of the amount of the tax shall be added thereto, in addition to the penalties stated in divisions (a) and (b) of this section.

(d) Interest. In addition to the previous penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1.5% per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid.

(e) Penalties During Pendency of Appeal. No penalty provided under the terms of this chapter shall be imposed during the pendency of appeal to the Board of Tax Appeals provided for in this chapter.
(Ord. 12-07. Passed 9-17-07.)

870.10 FAILURE TO COLLECT AND REPORT TAX; DETERMINATION OF TAX BY DIRECTOR OF FINANCE.

(a) If any operator shall fail or refuse to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the Director of Finance shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due.

(b) As soon as the Director of Finance shall procure such facts and information as he or she is able to obtain, upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Director of Finance shall give notice of the amount so assessed by serving it personally, or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of business.

(c) Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the Director of Finance for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Director of Finance, shall become final and conclusive and immediately due and payable.

(d) If such application is made, the Director of Finance shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence as to why such specified tax, interest and penalties should not be fixed.

(e) After such hearing, the Director of Finance shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days, unless an appeal is taken as provided in Section 870.11.

(Ord. 12-07. Passed 9-17-07.)

870.11 APPEALS.

Any operator aggrieved by any decision of the Director of Finance with respect to the amount of tax, interest and penalties, if any, due under this chapter, may appeal to the Board of Tax Appeals by filing a notice of appeal with it within 15 days of the serving or mailing of the determination of tax due in accordance with Section 880.16. Any amount found to be due shall be immediately due and payable upon the final decision of the Board of Tax Appeals.

(Ord. 12-07. Passed 9-17-07.)

870.12 ACTIONS TO COLLECT.

Except as otherwise provided in this chapter, it is the duty of each operator to collect the tax from the transient guest in accordance with Section 870.02. Every operator required to collect and remit such tax to the City is liable directly to the City for payment of such tax, whether or not such tax is actually collected from transient guests. Every

operator is deemed to be a trustee for the City in collecting and holding the tax required to be collected under this chapter, and the funds so collected are deemed to be trust funds. (Ord. 12-07. Passed 9-17-07.)

870.13 REFUNDS.

(a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in divisions (b) and (c) of this section, provided that a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director of Finance within three years of the date of payment. The claim shall be on forms furnished by the Director of Finance.

(b) An operator may claim a refund or take as a credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received, when it is established in a manner prescribed by the Director of Finance that the person from whom the tax has been collected was not a transient guest, provided, however, that neither a refund nor a credit shall be allowed, unless the amount of the tax so collected has either been refunded to the transient guest or credited to rent subsequently payable by the transient to the operator.

(c) A transient guest may obtain a refund of taxes overpaid, paid more than once or erroneously or illegally collected or received by the City, by filing of a claim in the manner provided in division (a) of this section, but only when the tax was paid by the transient guest directly to the Director of Finance, or when the transient guest, having paid the tax to the operator, establishes to the satisfaction of the Director of Finance that the transient guest has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto. (Ord. 12-07. Passed 9-17-07.)

870.14 DISBURSEMENT OF FUNDS.

The moneys received under the provisions of this chapter shall be credited to the General Fund of the City and used by the City as directed by the City Council. (Ord. 12-07. Passed 9-17-07.)

870.15 VIOLATIONS.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than 60 days, or both. (Ord. 12-07. Passed 9-17-07.)

870.16 SEPARABILITY.

If any section, subsection, sentence, clause or phrase of this chapter or any part thereof is, for any reason, held to be unconstitutional or unenforceable, such decision shall not affect the validity of the remaining portions of this chapter or any parts thereof.
(Ord. 12-07. Passed 9-17-07.)

CHAPTER 880
Earned Income Tax

880.01	Purposes; levy of tax.	880.15	Violations.
880.02	Definitions.	880.16	Board of Adjudication; Board of Tax Appeals.
880.03	Imposition of tax.	880.17	Allocation of funds.
880.04	Consolidated returns.	880.18	Credit for tax paid to another municipality.
880.05	Net operating loss (NOL) and business expenses.	880.19	Collection of tax after termination of chapter; authorization for collection agency and recovery of collection expenses.
880.06	Exceptions.	880.20	Separability.
880.07	Effective period.	880.21	Registration of tenants of rented property for tax purposes; responsibility of property owners.
880.08	Return and payment of tax.		
880.09	Collection at source.	880.99	Penalty.
880.10	Declarations.		
880.11	Duties and powers of the Superintendent.		
880.12	Investigative powers of the Superintendent; confidential information.		
880.13	Interest and penalties.		
880.14	Collection of unpaid taxes; refunds of overpayments.		

CROSS REFERENCES

Power to tax - see Ohio Const., Art. XVIII, Sec. 3

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

Taxation Division - see ADM. 230.08, 234.06

Responsibilities of Superintendent of Taxation - see ADM. 234.06(b)

Income tax bond for circuses and carnivals - see B.R. & T. 808.05

880.01 PURPOSES; LEVY OF TAX.

For the purpose of providing funds for the purposes of general Municipal operations, which includes maintenance, repair and upgrading of existing streets, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the City, there is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits, as hereinafter provided.

(Ord. 23-81. Passed 8-31-81.)

880.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except if the context clearly indicates or requires a different meaning:

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "Board of Adjudication" means the Board created by and constituted as provided in Section 880.16(a).
- (c) "Board of Tax Appeals" means the Board created by and constituted as provided in Section 880.16(b).
- (d) "Business" means an enterprise, profession, undertaking or other activity of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.
- (e) "Calendar year" means an accounting period of twelve months or less ending on December 31.
- (f) "Corporation" means a C corporation, subchapter S corporation, or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.
- (g) "Day" means any part of a twenty-four hour period.
- (h) "Domicile" means a principal residence that an individual intends to use for an indefinite time and to which whenever he or she is absent he or she intends to return. An individual has only one domicile even though he or she may have more than one residence.
- (i) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (j) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, having a place of business or doing business within the City and who or which employs one or more persons on a salary, wage, commission or other compensation basis.
- (k) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (l) "Form 2106" means the Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

- (m) "Gross receipts" means the total income from any source whatsoever required to be included in the return.
- (n) "Intangible Income" means income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code.
- (o) "Net profits" means the net gain from the operation and/or the complete or partial sale or disposition of a business, profession, enterprise or other activity, excluding capital gains and losses after provision for all ordinary and necessary expenses, paid or accrued in accordance with the accounting method or system used by the taxpayer for Federal income tax purposes, adjusted to the requirements of this chapter.
- (p) "Nonresident" means any individual who is not a resident as herein defined.
- (q) "Nonresident unincorporated business entity" means an unincorporated business entity not having a place of business within the City.
- (r) "Other activity" means any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to, rental of real and personal property and a business conducted by a trust or guardianship estate.
- (s) "Pass-Through Entity" means a partnership, subchapter S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (t) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any section prescribing and imposing a penalty, the term "person" includes an officer or employee of a corporation, or a member or employee of an association, who, as such officer, employee or member, is under a duty to perform the act in respect of which the violation occurs.
- (u) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of the regular employees regularly in attendance.

(Ord. 30-70. Passed 7-13-70.)
- (v) "Rental unit" means any physical space, including but not limited to any office, factory, retail store, warehouse, storage facility, residential dwelling, or other space, which is situated in the City and which is rented or leased to any person.
- (w) "Resident" means:
 - i. An individual who is domiciled in the City;

- ii. An individual who lives in and maintains a permanent place of abode in the City and who does not maintain a permanent place of abode elsewhere, unless such an individual, in the aggregate, lives more than 335 days outside the City.
(Ord. 94-75. Passed 1-5-76.)
- (x) “Resident unincorporated business entity” means an unincorporated business entity having a place of business within the City.
- (y) “Superintendent of Taxation” and “Superintendent” mean the Superintendent of Taxation of the City, or the person executing the duties of the aforesaid Superintendent of Taxation.
- (z) “Taxable income” means gross wages, salaries, commissions, and other compensation paid by an employer or employers before any deductions, other than ordinary and necessary business expenses, in the same manner as provided by the Internal Revenue Code, and/or net profits as herein defined. “Taxable income” shall also include income received from gambling winnings as herein defined.
- (aa) “Taxable year” means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made. Unless approved by the Superintendent, the taxable year of a wage earner shall be a calendar year.
- (bb) “Taxpayer” means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 30-70. Passed 7-13-70; Ord. 5-04. Passed 4-19-04; Ord. 9-04. Passed 7-19-04.)

880.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 880.18, an annual tax for the purposes specified in Section 880.01 shall be imposed for the period beginning October 1, 1981, at the rate of one and three-quarters percent per annum upon the following:

(1) On all salaries, wages, commissions and other compensation received during the effective period of this chapter by residents of the City.

(2) On all salaries, wages, commissions and other compensation received during the effective period of this chapter by nonresidents for work done or services performed or rendered in the City.

iii. On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

iv. On the portion of the distributive share of the net profits earned and accrued or received during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the City upon which the tax was not paid by the entity.

v. On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all nonresident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such association or other unincorporated business entity has an office or place of business in the City.

vi. On the portion of the distributive share of the net profits earned and accrued or received during the effective period of this chapter of a resident partner or owner of a nonresident association or other incorporated business entity, not attributable to the City, on which the tax was not paid by the entity.

vii. On the portion attributable to the City of the net profits earned and accrued or received during the effective period of this chapter of all corporations, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have a place of business in the City.

(8) On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and/or any other form required by the Internal Revenue Service that reports winnings from gambling.

(9) On or after January 1, 2003, a pass-through entity residing in or doing business in the city shall be taxed at the entity level.

(b) The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City, in the absence of actual records thereof, shall be determined as follows:

(1) Multiply the entire net profits by a business allocation percentage to be an average ratio of:

(1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer, and the value of such property shall be determined by multiplying the annual rental thereon by eight.

(2) Wages, salaries and other compensation paid or accrued during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid or accrued during the same period to persons employed in the business or profession, wherever their services are performed.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(2) As used in paragraph (b)(1)C. hereof, "sales made in the City" means:

A. All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.

B. All sales of tangible personal property which is delivered within the City regardless of where title passes, even though transported from a point outside the City, if the taxpayer is regularly engaged, through its own employees, in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.

C. All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(c) For the purpose of this section, the taxable base shall be determined in accordance with the Federal tax interpretations, when applicable, and with the accounting method used by the taxpayer for Federal income taxes, adjusted to the requirements of this chapter.

(Ord. 23-81. Passed 8-31-81; Ord. 5-04. Passed 4-19-04; Ord. 9-04. Passed 7-19-04.)

880.04 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Superintendent. On and after January 1, 2003, any municipal corporation that imposes a tax on the income or net profits of corporations shall accept for filing a consolidated income tax return from any affiliated group of corporations subject to the municipal corporation's tax if that affiliated group

filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

(b) For allocation of income and deductions between related taxpayers in the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting only a portion of its total business, the Superintendent may require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the City. If the Superintendent finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the City. (Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04.)

880.05 NET OPERATING LOSS (NOL) AND BUSINESS EXPENSES.

(a) The portion of a net operating loss sustained in any taxable year subsequent to December 31, 1975, allocable to the City, may not be applied against the portion of the profit of succeeding years allocable to the City. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of a net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.

(c) If an individual is engaged in two or more taxable business activities to be included on the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net operating profit or net operating loss.

(d) Losses from other sources, including net operating losses and passive activity losses reported for federal income tax purposes, may not be combined with qualifying wages.

(e) The only expenses that can be deducted against qualifying wages are those employee business expenses deductible for federal income tax purposes in determining adjusted gross income, unless otherwise allowed on a uniform and consistent basis by the Tax Administrator. The total of such expenses cannot exceed the employee's related W-2 wage income from the same employer. If a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for federal income tax purposes and reported on Form 2106 as attached to the taxpayer's federal income tax

return filed for the taxable year, the taxpayer shall determine taxable income to the City by deducting the same amount deducted for federal income tax purposes and reported on the taxpayer's Form 2106 for that taxable year. This deduction shall be allowed for City income tax purposes only if the taxpayer attaches to the taxpayer's city income tax return a copy of Form 2106 and Schedule A as filed with the taxpayer's federal income tax return for that taxable year.

(Ord. 94-75. Passed 1-5-76; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.06 EXCEPTIONS.

The tax provided for herein shall not be levied upon:

- (a) Pay or allowances of active members of the Armed Forces of the United States and of members of their reserve components including the Ohio National Guard, or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
- (b) Poor relief, proceeds from welfare benefits, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured, pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by a bona fide charitable, religious or educational organization and association.
- (e) Personal earnings of all persons under eighteen years of age.
- (f) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business.
- (g) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (h) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes.
- (i) Any person, firm, corporation or income as to whom or which it is beyond the power of Council to impose the tax herein provided for.

- (j) Compensation paid under Ohio R.C. 3501.28 or 3501.36 to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- (k) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Ohio R.C. Chapter 306 for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation.
- (l) The income of a public utility when that public utility is subject to the tax levied under Ohio R.C. 5727.24 or 5727.30, except a municipal corporation may tax the following, subject to Ohio R.C. Chapter 5745:
 - (1) Beginning January 1, 2002, the income of an electric company or combined company;
 - (2) Beginning January 1, 2004, the income of a telephone company.
As used in this section, "combined company," "electric company," and "telephone company" have the same meanings as in Ohio R.C. 5727.01.
- (m) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code.
- (n) On and after January 1, 2001, compensation paid to a nonresident individual for personal services performed by the individual in the municipal corporation on twelve or fewer days in a calendar year unless one of the following applies:
 - (1) The individual is an employee of another person; the principal place of business of the individual's employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days; and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.
 - (2) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the City of Centerville. (Ord. 30-70. Passed 7-13-70; Ord. 12-81. Passed 10-5-81; Ord. 9-04. Passed 7-19-04.)

880.07 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid, with respect to the salaries, wages, commissions and other compensation received, and shall be levied with respect to the net profits of businesses, professions or other activities earned and accrued or received, from and after October 1, 1981.
(Ord. 23-81. Passed 8-31-81.)

880.08 RETURN AND PAYMENT OF TAX.

(a) Each person who engages in a business or other activity or whose salary, wage, commission or other compensation is subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed by the fifteenth day of the fourth month from the end of such fiscal year or period. The Superintendent is hereby authorized to provide, by regulation, that the return of an employer showing the amount of tax deducted by the employer from the salaries, wages, commissions or other compensation of an employee, and paid by him or her to the Superintendent, may be accepted as the return required of an employee whose sole income, subject to tax under this chapter, is such salaries, wages, commissions or other compensation.

(Ord. 12-81. Passed 10-5-81; Ord. 9-04. Passed 7-19-04.)

(b) The return shall be filed with the Superintendent on a form or forms furnished by or obtainable upon request from the Superintendent, setting forth:

- (1) The aggregate amount of salaries, wages, commissions and other compensation received by the taxpayer and gross income from a business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns or other information as the Superintendent may require.

(c) The Superintendent may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Superintendent may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due.

(d) The taxpayer making a return shall, at the time of the filing thereof, pay to the Superintendent the amount of taxes shown as due thereon, provided, however, that credit shall be allowed for:

- (1) Any portion of the tax so due which has been deducted at the source pursuant to the provisions of Section 880.09;
- (2) Any portion of the tax which has been paid by the taxpayer pursuant to the provisions of Section 880.10; and
- (3) Credit to the extent allowed by Section 880.18 for tax paid to another municipality.

Subject to the limitations contained in Section 880.14, any taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder, or, at his or her election indicated on the return, such overpayment or part thereof shall be refunded.

(e) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 880.14. Such amended returns shall be on a form obtainable, upon request, from the Superintendent. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return without the approval of the Superintendent.

Within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax, based upon such final determination of Federal tax liability, and pay any additional tax shown to be due thereon or make claim for refund of any overpayment.

(f) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns, and the failure to file such information returns, schedules and statements shall be deemed to be a violation of this section. However, the taxpayer shall have ten days after notification by the Superintendent or his or her authorized representative to file the items required by this subsection.
(Ord. 30-70. Passed 7-13-70.)

880.09 COLLECTION AT SOURCE.

(a) Each employer shall, at the time of the payment of any salary, wage, commission or other compensation, deduct the tax of one and three-quarters percent, beginning October 1, 1981, from the gross salaries, wages, commissions or other compensation due by the employer to his or her employees who are subject to the provisions of this chapter. In making such deduction at the time of payment, the employer shall compute the tax to the nearest full cent so that mills of five or more shall be dropped. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his or her total earnings. Each employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, file a return and pay to the Superintendent the tax withheld during the preceding calendar quarter. Such approval for quarterly filings and payments may be withdrawn by the Superintendent when it is in the best interests of the City to do so.
(Ord. 12-96. Passed 12-16-96.)

(b) The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax has in fact been withheld.

(c) Each employer, in collecting the tax, shall be deemed to hold the same until payment is made by such employer to the City, as a trustee for the benefit of the City, and any such tax collected by such employer from his or her employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

(d) No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed by him or her exclusively in or about such person's residence, though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter.

(e) On or before February 28 of each year beginning with the year 1971, each employer shall file a withholding return on a form prescribed by and obtainable upon request from the Superintendent, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, the amount of tax withheld from his or her employees and such other information as may be required by the rules and regulations adopted by the Superintendent. (Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04.)

(f) The Superintendent, for good cause, may require monthly or immediate returns and payments to be submitted to his or her office, or may grant requests for monthly returns and payments to be submitted. Any employer that withholds tax of more than five hundred dollars (\$500.00) on a monthly basis is required to file a return and remit payment on a monthly basis. For those employers required to file monthly withholding returns, the due date of the return shall be the fifteenth day of the month following the month in which the tax is withheld.

(g) Any person required by the Internal Revenue Code to report, on an Internal Revenue Service Form 1099, payments made by such person to any individual not treated by such person as an employee for services performed by such individual shall also report such payment to the City where such services or any portion thereof were performed in the City, or where such payee is a resident of the City. Such report shall be made on a form prescribed by the Tax Administrator, which form shall include the name, address, federal taxpayer identification number, the amount of the payments made to each payee, and the percentage of such payments attributable to the City. Federal forms 1099 may be submitted in lieu of such report. Such return or forms shall be filed annually on or before February 28 of each year.

(h) Any person who is required herein to withhold City income tax from compensation shall pay all such City income tax to the City in accordance with the provisions of this Chapter. In the event the City income tax required to be withheld from the compensation of employees are not so withheld or are not paid to the city in accordance with the provisions of this section, any person, including but not limited to all shareholders, officers, owners, managers, employees, and trustees, having control or

supervision of or charged with the responsibility of filing the withholding return and making payment of City income tax withheld are jointly and severally personally liable for the City income tax withheld, not returned, or not paid to the City as well as any related interest and penalties, and are also criminally liable under the provisions of Section 880.99. The liquidation, dissolution, termination, death, or bankruptcy of any person does not discharge such person's liability for a failure of such person to file withholding returns or withhold or pay City income taxes required to be withheld.

(Ord. 94-75. Passed 1-5-76; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.10 DECLARATIONS.

(a) Every person who anticipates the receipt of any taxable income which is not subject to Section 880.09, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 880.03, shall file a declaration setting forth such person's estimated taxable income, together with any estimated tax due thereon, if any, provided, however, that if a person's income is wholly from wages from which the tax will be withheld and remitted to the City in accordance with Section 880.09, such person need not file a declaration.

(b) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months after the date the taxpayer becomes subject to the provisions of this chapter.

Those taxpayers reporting on a fiscal-year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(Ord. 30-70. Passed 7-13-70.)

(c) Such declaration shall be filed upon a form furnished by or obtainable upon request from the Superintendent, provided, however, that credit shall be taken for the City tax to be withheld from any portion of such income to determine the estimated tax due.

In accordance with the provisions of Section 880.18, credit may be taken for tax to be paid to, or to be withheld and remitted to, another taxing municipality.

The original declaration, or any subsequent amendment thereof, may be amended at any time.

An amended declaration must be filed on or before January 31 of the following year, or, in the case of a taxpayer on a fiscal year basis, on or before the date fixed by regulation of the Superintendent if it appears that the original declaration made for such taxable year underestimated the taxpayer's income by ten percent or more. At such time, a payment which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability, shall be made. If, upon the filing of the return required by Section 880.08, it appears that the taxpayer did not pay ninety percent of his or her tax liability, as shown on the return, on or before January 31, or the date fixed by regulations, whichever is applicable, the difference between ninety percent of the taxpayer's liability and the amount of estimated tax actually paid on or before January 31, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 880.13.

(d) Such declaration of net estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax, less credit, and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year and the first month of the next tax year.

(e) On or before the fifteenth of the fourth month of the calendar or fiscal year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 880.08. If the tax return is filed and paid within forty-five days after the end of the tax year, the fourth quarter estimated tax payment may be eliminated.

(Ord. 12-96. Passed 12-16-96; Ord. 12-10. Passed 7-19-10.)

880.11 DUTIES AND POWERS OF THE SUPERINTENDENT.

(a) The Superintendent shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, keep an accurate record thereof and report daily all moneys so received.

The Superintendent shall enforce payment of all taxes owed to the City, keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and show the dates and amounts of payments thereof.

(b) The Superintendent is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of Council by motion, to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(c) In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Superintendent may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

(1) Provisions affecting taxpayers generally.

A. If the Superintendent determines that any taxpayer subject to the provisions of this chapter has a tax liability for which he or she has filed no return or has filed an incorrect return and has failed to pay the full amount of tax due, the Superintendent shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

1. Such proposed assessment shall be served upon the taxpayer in person or by mailing it to his or her last known address by regular mail.

2. A taxpayer may, within fifteen days after the date the proposed assessment was served or mailed, file a written protest with the Superintendent. Within fifteen days after receipt of the protest, the Superintendent shall give the protestant an opportunity to be heard, although the Superintendent may extend the date of hearing for good cause shown. After the hearing the Superintendent shall withdraw the assessment or he or she shall adjust or reaffirm the assessment, and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen days after being served.
- B. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.
 1. A taxpayer shall have thirty days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of Tax Appeals. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Superintendent, who shall, within five days after receipt thereof, deliver such appeal to the Chairperson of the Board of Tax Appeals, or, if the Chairperson is not available, to the Vice-Chairperson.
 2. The Board of Tax Appeals, upon receipt of a notice of appeal, shall, within fifteen days, notify the Superintendent thereof, who shall forward to the Board, within fifteen days, a certified transcript of all actions taken by him or her with respect to such final assessment. Such transcript shall be open to inspection by the appellant and his or her counsel.
 3. Any taxpayer against whom a final assessment has been issued and who has filed a notice of appeal shall be granted a hearing by the Board of Tax Appeals. At such hearing the appellant and the Superintendent shall be given opportunity to present evidence relating to the final assessment. After the conclusion of such hearing, the Board of Tax Appeals shall affirm, reverse or modify the final assessment and shall furnish a copy of its decision with respect thereto to the appellant and the Superintendent. The appellant's copy of the decision shall be served upon him or her in the same manner as herein provided for the serving of assessments.
- C. When any taxpayer subject to the provisions of this chapter has filed a return indicating the amount of tax due and has failed to pay the tax to the Superintendent as required by this chapter, the Superintendent need not issue an assessment but may proceed under the provisions of Sections 880.14 and 880.15.

(2) Provisions affecting employers.

- A. If the Superintendent determines that an employer subject to the provisions of this chapter has failed to file a return for tax withheld and has failed to pay to the Superintendent the full amount of such taxes, the Superintendent shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of paragraphs (c)(1)A. and (c)(1)B. hereof shall then apply.
- B. If the Superintendent determines that an employer subject to the provisions of this chapter has failed to withhold tax, the Superintendent shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of paragraphs (c)(1)A. and (c)(1)B. hereof shall then apply.
- C. When an employer subject to the provisions of this chapter has filed a return indicating the amount of tax withheld and has failed to pay the tax to the Superintendent as required by this chapter, the Superintendent may proceed under the provisions of Sections 880.14 and 880.15 and need not issue an assessment as provided in paragraphs (c)(2)A. and (c)(2)B. hereof.

(d) Any taxpayer or employer who has not filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him or her shall pay the amount thereof within fifteen days after service of such final assessment. The amount of the final assessment may not be appealed.

Any taxpayer or employer who has filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him or her shall pay the amount determined to be due by the Board of Tax Appeals within fifteen days after service of his or her copy of the decision of the Board.

(e) The Superintendent shall have the authority, when requested by the taxpayer and for good cause shown, to extend the time of making and filing any return whenever he or she deems it necessary to do so, but not to exceed a period of six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return.

(f) When an application for deferred payment of tax due is filed by a taxpayer, the Superintendent may authorize partial payments of unpaid taxes when, in his or her judgment, the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due, and when, in his or her judgment, such deferred payments are the best means of accomplishing the intent of this chapter. However, the Superintendent shall not authorize an extension of time for the payment of such taxes due for more than twelve months beyond the date of the filing of the application.

(g) The Superintendent shall have the authority to charge a fee for any payment made by check under this Chapter 880, which has been returned “unpaid” due to insufficient funds. Said fee shall be reasonably calculated in an amount necessary to cover the City's expenses for processing and handling fees assessed to the City and for the check returned “unpaid” for insufficient funds. The Superintendent shall not charge this fee unless and until the amount of said fee is posted in writing and available to the public. (Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.12 INVESTIGATIVE POWERS OF THE SUPERINTENDENT; CONFIDENTIAL INFORMATION.

(a) The Superintendent or any authorized employee is hereby authorized to examine the books, papers, records and copies of Federal Income Tax Returns of any employer or of any taxpayer or person subject to, or whom the Superintendent believes is subject to, the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish, within ten days following a written request by the Superintendent, or his or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Superintendent is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and copies of Federal Income Tax Returns and the attendance of all persons before him or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and copies of Federal Income Tax Returns, the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax, or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Superintendent authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 880.99.

(d) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the City or as authorized by this chapter or the charter or ordinance authorizing the levy. The Superintendent may furnish copies of returns filed under this chapter to the internal revenue service and to the tax commissioner. Any person divulging such information in

violation of this chapter, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. (Ord. 9-04. Passed 7-19-04.)

(e) Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of five years from the date his or her return is filed or the withholding taxes are paid. (Ord. 30-70. Passed 7-13-70.)

(f) The Superintendent is hereby authorized to engage the services of one or more consultants, accountants or outside auditors to assist him or her in carrying out the duties assigned to him or her under this chapter. Any such consultant, accountant or auditor shall be bound by the provisions of this chapter as the same apply to the Superintendent and authorized employees of the City, specifically the provisions of this section. (Ord. 20-94. Passed 11-21-94.)

880.13 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the Federal short-term rate as defined in Ohio R.C. 5703.47, plus three percent per month or fraction thereof. (Ord. 12-96. Passed 12-16-96.)

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

- (1) For failure to pay taxes due, other than taxes withheld: ten percent during the first six months, and an additional one and one-half percent per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees: three percent per month or fraction thereof, or ten percent, whichever is greater.
- (3) When the taxpayer has failed to file a declaration on which he or she has estimated and paid a tax equal to or greater than the tax paid for the previous year, or has failed to file a declaration on which he or she has estimated and paid tax equal to or greater than ninety percent of the actual tax for the year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his or her taxable year: ten percent of the difference between ninety percent of the actual tax for the year and the amount paid through withholding or declaration.

Except in the case of fraud, the penalty shall not exceed fifty percent of the unpaid tax.

(c) A penalty shall not be assessed on an additional tax assessment made by the Superintendent when a return has been filed in good faith and the tax paid thereon within

the time prescribed by the Superintendent. Further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided that an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(d) Upon recommendation of the Superintendent, the Board of Adjudication may abate penalty or interest, or both.

(e) In no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than ten dollars (\$10.00).

(f) Any person required to withhold the tax who knowingly fails to withhold such tax or pay over such tax, or who knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, not withheld or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

(g) A penalty shall be assessed for the failure to file tax returns, informational reports or any other filing as required by this section. If the required filing is not more than 120 days late, the penalty assessed shall be twenty-five dollars (\$25.00). If the required filing is more than 120 days late, the penalty assessed shall be fifty dollars (\$50.00). Filings shall be deemed timely if postmarked by the due date.

(h) Penalty and interest will not be assessed for failure to pay estimated tax against an individual who resides in the City but was not domiciled here on the first day of January of the current year.

(Ord. 30-70. Passed 7-13-70; Ord. 1-97. Passed 2-17-97; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.14 COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of twenty-five percent of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an additional assessment may be made by the Superintendent shall be one year from the time of the final determination of the Federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time specified in Ohio R.C. 718.06.

(c) Additional amounts of less than five dollars (\$5.00) shall not be refunded or assessed unless such assessment results from income which the taxpayer has failed to report.

(Ord. 30-70. Passed 7-13-70; Ord. 12-10. Passed 7-19-10.)

880.15 VIOLATIONS.

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (2) Make any incomplete, false or fraudulent return;
- (3) Knowingly fail or refuse to pay the tax, penalties or interest imposed by this chapter;
- (4) Knowingly fail or refuse to withhold the tax from his or her employees and remit such withholding to the Superintendent;
- (5) Refuse to permit the Superintendent or any duly authorized agent or employee to examine his or her or his or her employer's books, records, papers and copies of Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (6) Fail to appear before the Superintendent and to produce his or her or his or her employer's books, records, papers or copies of Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Superintendent;
- (8) Refuse to disclose to the Superintendent any information with respect to the income or net profits of a taxpayer;
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Superintendent; or
- (10) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) Any person subject to the provisions of this chapter who has failed to file a return, has filed an incorrect return or has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of Section 880.99 until the assessment issued against him or her under the provisions of Section 880.11 has become due and payable.

(c) Any person who has filed a return under the provisions of this chapter, indicating the amount of tax due, and who has failed to pay such tax, together with penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in paragraph (a)(3) hereof, until the date of the filing of such return.

(d) The term “person,” as used in this section, shall, in addition to the meaning prescribed in Section 880.02(n), include, in the case of an association or corporation not having any partner, member or officer within the City, any employee or agent of such association or corporation who can be found within the corporate limits of the City.

(e) All prosecutions under this section must be commenced within the time specified by applicable law.

(f) The failure of any employer, taxpayer or other person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such forms, or from paying the tax. (Ord. 30-70. Passed 7-13-70; Ord. 12-10. Passed 7-19-10.)

880.16 BOARD OF ADJUDICATION; BOARD OF TAX APPEALS.

(a) Board of Adjudication.

- (1) A Board of Adjudication, consisting of the Manager, or a person designated by him or her, the Director of Finance, or a person designated by him or her, and the Municipal Attorney, or an Assistant Municipal Attorney designated by him or her, is hereby established. The Board shall select, each year for a one-year term, one of its members to serve as Chairperson and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum.
- (2) The Board shall adopt its own procedural rules and shall keep a record of its proceedings. All hearings of the Board shall be conducted privately and the provisions of Section 880.12, with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be presented to the Board of Adjudication.
- (3) The Board shall have the authority, upon request of the Superintendent, to modify, in whole or in part, any assessment of tax, penalty and/or interest required to be made by this chapter. In addition, the Board may authorize the Superintendent to accept partial payments for a period in excess of the time authorized in Section 880.11.
(Ord. 30-70. Passed 7-13-70.)

(b) Board of Tax Appeals.

- (1) A Board of Tax Appeals, consisting of three representative residents of the City, not otherwise employed by the City, to be appointed by Council for terms of three years, is hereby established. Initially, members shall be appointed for one, two and three-year terms, respectively. Thereafter, members shall be appointed to and shall serve for three-year terms. (Ord. 6-86. Passed 3-17-86.)
- (2) One of the members of the Board appointed by Council shall be chosen by the members as Chairperson of the Board, and all members may receive per

diem compensation to be fixed by Council. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and keep a record of its proceedings. All hearings by the Board may be conducted privately and the provisions of Section 880.12, with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be heard on appeal before the Board.

- (3) The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any assessment, ruling or decision, or any part thereof, made by the Superintendent, from which an appeal has been filed, as provided in Section 880.11. (Ord. 30-70. Passed 7-13-70.)

880.17 ALLOCATION OF FUNDS.

(a) Effective January 1, 2000, from all Municipal income tax receipts received by the City, the following allocation is hereby to be made to the General Fund: 100 percent.

(b) The Director of Finance is hereby authorized and directed to take all necessary action in order to carry out the allocation provided for in subsection (a) hereof. (Res. 68-99. Passed 12-20-99.)

880.18 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the City is subject to a municipal income tax in another municipality, he or she shall not pay a total municipal income tax on the same income greater than the tax imposed at the highest rate to which he or she is subject.

(b) Every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside the City, if it is made to appear that he or she has paid a municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or her or on his or her behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid. No credit shall be granted for county or school district taxes paid.

(c) A claim for refund or credit under this section shall be made in such manner as the Superintendent of Taxation may by regulation provide. (Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04.)

880.19 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER; AUTHORIZATION FOR COLLECTION AGENCY AND RECOVERY OF COLLECTION EXPENSES.

(a) This chapter shall continue effective, insofar as the levy of taxes is concerned, until repealed, and insofar as the collection of taxes levied hereunder and actions or

proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied hereunder are fully paid and until any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 880.14 and 880.15.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 880.08 and 880.09 as though the same were continuing.

(c) The City Manager is hereby authorized and empowered to execute a contract with a competent municipal collection agency for the administration and collection of taxes provided for in this chapter. All taxes imposed by this chapter shall be collectible by a collection agency as other debts of like amount are recoverable, together with any interest and penalties, as well as any collection agency fees and expenses incurred by the City.

(d) All taxes imposed by this chapter shall be collectible by civil suit as other debts of like amount are recoverable, together with any interest and penalties, collection expenses and reasonable attorney's fees incurred by the City with regard to that collection or litigation.

(Ord. 30-70. Passed 7-13-70; Ord. 9-04. Passed 7-19-04; Ord. 12-10. Passed 7-19-10.)

880.20 SEPARABILITY.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this chapter, or such tax, and shall not affect or impair any of the remaining sentences, clauses, sections or parts of this chapter or the application of the tax to any other person or group. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 30-70. Passed 7-13-70.)

880.21 REGISTRATION OF TENANTS OF RENTED PROPERTY FOR TAX PURPOSES; RESPONSIBILITY OF PROPERTY OWNERS.

(a) The owner of any real property in the City who rents or leases the same to any other person, firm or corporation shall, within thirty days following the first day of occupancy by said person, firm or corporation, give the Tax Administrator the name and mailing address of said tenant.

(b) The Tax Administrator shall, by regular mail, with a certificate of mailing, mail a copy of this section to all ascertainable owners of property, which property is presently being rented to others from time to time, as the same are ascertained.

(c) All owners of property who rent the same to others shall, within thirty days after the receipt of a copy of this section as provided in subsection (b) hereof, furnish to the Tax Administrator the information required by subsection (a) hereof.

(d) All owners of property, which property is being rented to others, shall, no later than October 30 of each year, furnish to the Tax Administrator a complete list of the names and mailing address of all persons, firms and corporations who or which are tenants of said owners.

(Ord. 4-00. Passed 5-15-00.)

880.99 PENALTY.

(a) Unless otherwise provided, whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Adopting Ordinance)

(b) In addition to the penalty provided in subsection (a) hereof, any employee of the Municipality who violates Section 880.12, relative to the disclosure of confidential information, is guilty of an offense punishable by immediate dismissal. Each disclosure shall constitute a separate offense. (Ord. 30-70. Passed 7-13-70.)

(c) (EDITOR'S NOTE: Subsection (c) hereof was repealed by Ordinance 4-00, passed May 15, 2000.)

CHAPTER 890 Community Reinvestment Area

890.01	Purpose; establishment.	890.05	Council findings.
890.02	Boundaries.	890.06	Appeals.
890.03	Tax exemptions.	890.07	Copy to be forwarded to County Auditor.
890.04	Housing officer.		

CROSS REFERENCES

Community reinvestment areas - see Ohio R.C. 3735.65 et seq.

Tax levy law - see Ohio R.C. Ch. 5705

Taxable property; exemptions - see Ohio R.C. Ch. 5709, 5713.07 to 5713.082

Assessing real estate - see Ohio R.C. Ch. 5713

Community Reinvestment Area Housing Council - see ADM. Ch. 289

890.01 PURPOSE; ESTABLISHMENT.

For the purpose of fulfilling the requirements set forth under Ohio R.C. 3735.65 through 3735.70, a Community Reinvestment Area is hereby established.
(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.02 BOUNDARIES.

The boundaries of the Community Reinvestment Area are the same as the boundaries of the present corporate boundaries of the City, located within Montgomery County, Ohio, all of which boundaries are more particularly described on the map marked Exhibit 2010.2 attached hereto and incorporated herein by reference. This Council hereby finds that the area included in the Community Reinvestment Area is one in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.
(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.03 TAX EXEMPTIONS.

- (a) Within the Community Reinvestment Area, tax exemptions for improvements to real property as described in Ohio R.C. 3735.67 will be granted for the following periods:
- (1) Ten years for the remodeling of every dwelling, not less than twenty-five years old at the time of remodeling, containing not more than two family units upon which the cost of remodeling is at least two thousand, five hundred dollars (\$2,500) as described in Ohio R.C. 3735.67(D)(1).

- (2) Twelve years for the remodeling of every dwelling containing more than two units, not less than twenty-five years old at the time of remodeling, and commercial or industrial properties upon which the cost of remodeling is at least five thousand dollars (\$5,000) as provided for in Ohio R.C. 3735.67(D)(2).
- (3) Fifteen years for the construction of every or commercial or industrial structure as provided for in Ohio R.C. 3735.67(D)(3).

(b) The foregoing criteria shall not apply, and the criteria in effect under Resolution No. 57-80, as previously amended (the "Prior CRA Resolution"), shall apply, to any applications for tax exemptions under the Prior CRA Resolution currently pending with the housing officer.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.04 HOUSING OFFICER.

To administer and implement the provisions of this chapter, the Manager or his or her duly authorized designate is hereby designated as the Housing Officer, as described in Ohio R.C. 3735.65 through 3735.68.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.05 COUNCIL FINDINGS.

Council finds that the area included within the foregoing description as the Community Reinvestment Area is one in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.06 APPEALS.

Any person aggrieved under Ohio R.C. 3735.65 through 3735.69 shall have the right of appeal as provided for in Ohio R.C. 3735.70.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

890.07 COPY TO BE FORWARDED TO COUNTY AUDITOR.

A copy of this chapter will be forwarded to the County Auditor by the Clerk of Council for information and reference.

(Res. 33-98. Passed 9-21-98; Res. 56-10. Passed 12-20-10.)

CHAPTER 892
Municipal Motor Vehicle License Tax

892.01	Purpose.	892.04	Commencement of tax.
892.02	District of registration.	892.05	Payment at time of application
892.03	Additional tax.		for registration.

892.01 PURPOSE.

For the purpose of paying the costs and expenses of enforcing and administering the tax provided for in Ohio R.C. 4504.172, for the purpose of supplementing the revenue already available to municipal corporations under Ohio R.C. 4504.04, 4504.06, 4504.17 or 4504.171, and to provide additional revenue for the purposes set forth in those Ohio Revised Code sections, the City hereby levees an annual license tax in the amount of five dollars (\$5.00) per motor vehicle registered in the City.
(Ord. 12-15. Passed 6-15-15.)

892.02 DISTRICT OF REGISTRATION.

The license tax established herein is hereby levied on all motor vehicles, the district of registration of which, as defined in Ohio R.C. 4503.10, is in the City of Centerville, Montgomery County.
(Ord. 12-15. Passed 6-15-15.)

892.03 ADDITIONAL TAX.

This additional motor vehicle license tax is in addition to any other motor vehicle license tax currently being levied in the City.
(Ord. 12-15. Passed 6-15-15.)

892.04 COMMENCEMENT OF TAX.

The tax imposed by this chapter shall commence at the earliest possible time and shall continue in effect until repealed.
(Ord. 12-15. Passed 6-15-15.)

892.05 PAYMENT AT TIME OF APPLICATION FOR REGISTRATION.

The tax imposed by this chapter shall be paid to the Registrar of Motor Vehicles of the State of Ohio or to a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10.
(Ord. 12-15. Passed 6-15-15.)

